Regional Coalition of LANL Communities Comments on the Draft Solicitation DE-SOL-0011206 for the Los Alamos National Laboratory Site Management and Operating Contract Competition

To Whom It May Concern:

Though the Regional Coalition of LANL Communities, along with all solicitors, have had a condensed period to review the Draft Request For Proposal for the Los Alamos Management and Operations contract at Los Alamos National Laboratory (LANL), there are many items we hope to continue to discuss with you as the draft language is considered for revision. Overall, it holds absolutely true to our governing bodies that the contract language as currently drafted is a great deviation from previous acquisitions and certainly from the Current Contract with LANS. The language demonstrated in the Draft RFP as presently proposed causes alarm on many levels, causing a tectonic shift to the management of such an important and critical contract in executing national security efforts at LANL.

The following comments focus on the sections most critical to improving the Site Management and Operations (M&O) Draft RFP from the perspective of an active body of elected and tribal officials representing nine municipal and tribal communities surrounding Los Alamos National Laboratory. Outright, we are deeply concerned with the direction this acquisition has taken from previous LANL contract iterations and believe it to be set on an unfavorable path if left unchanged.

1. The next Prime Contractor should be an explicit partner in community engagement, leadership, and corporate citizenship.

The Coalition has had the opportunity to speak directly to past and current LANL contractors to engage on the positive and negative externalities of Lab operations, with the understanding that our elected and tribal officials are at the frontlines of representing the interests of the Lab to residents in surrounding communities. As we see it, our communities are the first line of defense on activities at the Lab, and do our utmost to leverage the opportunities that come from its existence. We believe we have built a great relationship with the current Lab operator, which has been founded upon the previous RFP that explicitly invited engagement and dialogue with our communities.

In the Draft RFP as proposed, language engaging the potential M&O contractor to be a leader in our communities as a positive corporate citizen, has been completely removed. The Current Contract stipulated:

“[T]he Contractor will be a constructive partner to the communities in Northern New Mexico, the eight northern pueblos, and to citizens of the State of New Mexico who should all benefit from the Contractor's management and operation of Los Alamos National Laboratory.”

The Draft RFP completely disregards LANL’s community engagement and leadership in that regard. This is a slight to our communities, representative organizations, and a turn for the worst on collaborative, strong, and participatory leadership from NNSA and its contractors. The past 20 years have demonstrated that contractually mandated commitment to the community is a critical success factor to achieve broad-based community support for LANL operations. Without contractually mandated community commitment, there is high risk to revert to the negative aspects of pre-1997 LANL activities and challenges therein.

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*Current LANS Conformed Contract, Section J Appendix entitled “Contractor and Parent Organization Commitments, Agreements, and Understandings” sets forth the Contractor’s Community Commitment plan.*
2. An expanded, scored, and evaluated Community Commitment Plan should be enforced through the lifetime of the contracting tenure of the next Prime Contractor.

Ongoing relationship building and goal setting for the future of our region is paramount with the next LANL Prime Contractor at the helm. Consequently, actualization of a Community Commitment Plan (CCP) is fundamental to this relationship. The CCP under the Current Contract with Los Alamos National Security (LANS) has been among the most positive influences to our region in the Current Contractor’s tenure. It has become a clear pathway for contractors to have a constructive means of engaging with our communities throughout the region where LANL workforce resides.

Located in one of the most challenged economies in the United States, with some of the poorest counties in the nation designated as host communities to LANL employees, the CCP is a means to create access to LANL opportunities, to market the incredible work accomplished, and provide a goodwill relationship among community leadership and supportive practitioners. The existing contract appropriately indicates that with “the regional dominance of the Laboratory, a strong, vibrant, regional economy is vital to long-term Laboratory operations and to the morale of LANL’s workforce”. In that condition, the Current Contract and provides funding for certain initiatives that have enabled regional economic and social development practitioners to fund programs that make Northern New Mexico a better place to live for LANL employees and their families.

Our Coalition requests that the following compelling requirements from the existing contract be included as requirements in the final LANL M&O RFP:

- Provide community support to facilitate LANL operations; perform a periodic needs assessment to determine what support is needed to facilitate LANL operations.\(^2\)
- Conduct a science and mathematics education program at the pre-K through 12 (pre-college) and university levels to increase the nation’s competitiveness in the global market, to contribute to developing a diverse, well-educated, and scientifically literate workforce, and to help maintain the nation’s world technical leadership.\(^4\)
- Conduct communications, information, public participation, and public affairs programs, including community involvement and outreach.\(^5\)
- Development of a long-term community commitment plan and require commitment to benefiting the Northern New Mexico community, such as the one in the Existing Contract which focuses on improving education, economic development, and charitable giving.\(^6\)

We request that the final RFP require respondents to provide a specific plan for community support\(^7\) within their proposal and assign a small point value to a community commitment criterion. Our communities have prepared and fully vetted a Community Commitment Plan for the oncoming M&O contractor. The Regional Coalition is available to meet with any and all potential solicitors to discuss the explicit needs of our communities; complete with continuity planning on community investments made by LANS and programmatic direction on enacting the next generation CCP.

3. The RFP should readily identify the requirement for the contractor to continue to support all existing contracts, agreements, Memorandums of Understanding (MOUs), and other similar instruments between the Current Contractor and other state or local governmental entities.

The Draft RFP, as currently presented, does not yet provide support for the numerous existing contracts, agreements, MOUs, and other similar instruments between the Current Contractor and other state or local governmental entities. These documents represent extensive work between state and local communities in partnership with the Lab, and must be recognized through this acquisition process as ongoing efforts of the next LANL M&O contractor. These local

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\(^2\) See ‘Appendix A’ for the full text from the existing contract.
\(^3\) Section 6.3 of the LANS Conformed Contract.
\(^4\) Section 6.4 of the LANS Conformed Contract.
\(^5\) Section 6.5 of the LANS Conformed Contract.
\(^6\) Part III, Section J, Appendix H of the Existing Contract. See also Part III, Section J, Appendix I. of the LANS Conformed Contract.
\(^7\) See Part III, Section J, Appendix H and Appendix I. of the LANS Conformed Contract.
government efforts contribute to a vibrant community environment that is beneficial to LANL’s recruiting efforts and high quality of life in the region.

Particularly in reference to the Manhattan Project National Historical Park, our communities have been working diligently to leverage the opportunity of the creation of the Park to a regional economic development effort. The nationwide effort to realize this Park has been unparalleled and must be recognized in the RFP as an ongoing effort at LANL.

4. Small business participation and scoring should include a Small Business Subcontracting Plan, complete with local subcontracting goals with a 5% (or greater) preference for contractors that are located in Northern New Mexico.

In the current Draft RFP, there is absence of a necessary commitment to small business and does not mention a commitment to creating any incentive for our local contractors to operate, nor does it require any commitment to the use of subcontractors in the operational aspects of the Lab. This could be damaging to our local economy as many contractors operate very small and disadvantaged businesses in HUB Zone areas, and calculate their business opportunities based on possible subcontracts at LANL. In previous DOE contracts, up to 60% of subcontracts were set aside for small business in accordance of U.S. Small Business Administration goals, with 35% of Total Estimated Cost of work to be performed by a subcontractor.

In addition, the Current Contract created a program that gives “preference to NNM small businesses for acquisitions exceeding the LANL competitive threshold by adding a 5% adjustment factor to be applied to the proposed total evaluated bid/cost of those qualified suppliers whose businesses do not meet the definition of a NNM small business concern”. This opportunity was “flowed down via LANS subcontract clauses in subcontracts and purchase orders with a value of $5 million or greater.”

Enforcement and engagement in this opportunity has provided many NNM small businesses the opportunity to viably compete on contracts they are qualified for and provide incentive for small businesses to continue and/or start operations in our local areas. This precedent creates an exponential benefit to our region as well as an added value to the M&O Prime Contractor. Local vendors are accessible and available to call upon when needed, creating greater efficiency in the process and providing longer-term benefits to the Lab.

The minimum 5% regional pricing preference should be mandated and reinforced in the final RFP for the next contractor, and should continue through the lifetime of the contract. This has been a best practice of the NNSA under the Current Contract and should be considered in any DOE subcontracting process.

5. The next M&O Prime Contractor should identify a plan for attracting and retaining world-class talent and next-generation workforce through this RFP.

Workforce planning and talent attraction and retention are important, if not critical, elements of the DOE’s long-term planning and hiring plans. With retirement eligibility and current retirement rates as they stand in at Los Alamos National Lab, (and the broader DOE Complex), it is crucial to employ an expeditious and inspired process of ensuring ongoing high-performance in the retained workforce and those of future recruitment processes.

Under the Draft M&O RFP, there is no clear indication for the need of a plan of action to maintain the Lab’s status as a world-class employer or to create continuity plans in addressing the salaries and benefits needed to retain and attract the highest quality of talented individuals. In order to maintain a ‘world-class workforce’, we believe this section should speak with greater clarity on the type of workforce the contractor intends to cultivate. These issues appear unclear in Section 2.3 and Section 4.0 of the Scope of Work of the Draft RFP, requiring no reinforcement on stability or certainty for the current workforce threshold of salary and benefits.

8 Los Alamos Legacy Cleanup Contract, E-SOL-008109, Section H.63, “Subcontracted Work”.
NNSA-required stability and certainty for current LANL workforce will offer Lab employees more reason to retain their current position during a period of contractor transition. LANL traditionally has higher benefits available to its staff in order to attract and retain the best and brightest employees. If the retirement benefits are any less attractive than current standards, such a change will exacerbate the departure of employees, while also inhibiting LANL’s ability to recruit and retain quality replacements. This will only serve to compound the amount of retirements, already occurring at high volumes, and will be magnified at the time of this transition based on current projections.

6. **A 1% performance fee threshold is too low to incentivize performance standards at the levels required for operating Los Alamos National Laboratory, a complex with unprecedented operational technicality and throughput.**

With specifically requested feedback on Section L, the Coalition is very clear that the fee threshold is far too small at 1%. The decrease in fee threshold provides a tremendous amount of risk to the NNSA. Though shifting from 3% down to 1% provides a notable discount for work accomplished by the NNSA, it also creates an alarming amount of risk for the potential solicitor, with little value added to the work accomplished. With a lower threshold of possible fee, we are worried that fewer, if any, solicitors will respond to the RFP.

We understand the FAR stipulates that the fee is set “in the Government's best interest to offer contractor's opportunities for financial rewards sufficient to: stimulate efficient contract performance; attract the best capabilities of qualified large and small business concerns to Government contracts; and maintain a viable industrial base to meet public needs.” Based on the Draft RFP language, however, the fee at 1% is demonstrating the opposite.

With a significant decrease in fee, the NNSA is essentially communicating that the lowest evaluated cost/price is NNSA’s principal interest, and is not concerned with hiring the best possible contractor to do the job. Therefore, this runs high risk of decreasing standards in performance and goals for the next operator. With this change, we can anticipate that most experienced and qualified bidders will likely elect not to bid on this contract given current caps on fees set forth in the Draft RFP. While the expectation is to receive bidders on the Draft RFP in its current form, the Coalition urges NNSA to remove fee caps included within Section L-16(b) and Section L-16(c) so that NNSA can be certain to capture responses from a range of qualified candidates, and not only those that are willing to perform at the lowest fee. Instead of including an arbitrary cap, NNSA would be better served following the evaluation criteria identified in Section M-3, which would enable NNSA to consider price as an important—but certainly not the primary—component of its evaluation.10

7. **The payment of New Mexico gross receipts tax helps provide critical infrastructure and services that support Los Alamos National Lab, its workforce and the state as a whole.**

LANL is the largest economic driver of the region, and with LANS as a for-profit manager, gross receipts tax paid by LANS currently contributes substantially to local communities and the State of New Mexico. As an economically struggling state, with some of the poorest communities in the U.S. surrounding LANL, these tax revenues support public services around the region, such as funding for local schools, transportation and infrastructure, and public safety—all which benefit LANL in its recruitment and retention of employees, and provide a high quality of life for LANL workforce residents.

Choosing LANL’s new management will be critical to ensuring the economic security of Northern New Mexico and the State, overall. We understand through speculators that DOE is seeking out a non-profit modeled manager and operator for Lab contracts in an attempt to avoid paying this overhead fee for ‘general governmental services’. A for-profit institution must be given priority for managing the Lab, being that a non-profit tax structure for LANL would

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10 Section M-3 identifies that “The Government is more concerned with obtaining a superior Technical and Management proposal than making an award at the lowest evaluated cost/price. The Government will not make an award at a cost/price premium it considers disproportionate to the benefits associated with the evaluated superiority of one Technical and Management proposal over another.”
negatively affect the region and State. This would lead to a substantial amount of layoffs and create reverberating adverse effects on job retention, economic opportunities, and services for LANL.

The Regional Coalition would like to remind you that our communities, organizations, and leadership want to be productive and supportive partners who want to see the Lab succeed as the most important economic driver and largest job supplier in our region. Your success is ours and vice versa. We want to ensure that we can be active participants in the triumphs of the Lab, and an effective advocate when community engagement and understanding is key. We have taken numerous actions to support the efforts of the Lab’s success and believe that with some better direction on priorities and shift in language of this current Draft RFP, we can all achieve the bright future that is promised with a new Lab operator.

Above all else, the Coalition is taking an active role in this acquisition process because we care deeply about ensuring the future of LANL is rooted in the best possible contractual foundations moving forward. As host communities, we inherit the decisions of the DOE and NNSA, and are hoping to clarify the vast implications of such decisions. Since the 2005 LANL acquisition, our Coalition has remained dedicated to seeking optimal outcomes on Lab activity and how it can create exponential benefit to our region, being hosts to the activities, accomplishments and failures of the Lab.

As elected and tribal representatives, hosts to surrounding LANL communities, friends, family and representatives of your workforce, and a Coalition on the frontlines of consequences (positive and negative) of your operations, we believe it is in the NNSA’s very best interest to look with great interest into our requests to ensure the best possible outcomes for those all involved. We thank you for your time and consideration of the content of this letter and wait eagerly for your response.

Sincerely,

Chair, Mayor Javier Gonzales, City of Santa Fe
Vice Chair, Commissioner Barney Trujillo, Rio Arriba County
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    Senator Tom Udall, U.S. Senate
    Representative Ben Ray Luján, U.S. House of Representatives
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