Nevada Gold Mines, LLC
October 25, 2019
84 Fed. Reg. 53,066
Comments

Appendix B

Department of Energy

Environmental Management
Consolidated Business Center
250 East 5th Street, Suite 500
Cincinnati, Ohio 45202
(513) 246-0500

January 17, 2019 EMCBC-00213-19

Dear Mr. LaBarge:

BASIC ORDERING AGREEMENT (BOA) NO. DE-EM0003716, DOE LOW LEVEL/MIXED LOW LEVEL WASTE TREATMENT SERVICES, ELEMENTAL MERCURY LONG-TERM STORAGE AND MANAGEMENT, REQUEST FOR TASK PROPOSAL NO. 89303319REM000046

In accordance with Section H.07 (Ordering Procedures), subsection (d)(2) of the subject BOA, this Request for Task Proposal (RTP) is being issued to Waste Control Specialists, LLC (WCS). The U.S. Department of Energy (DOE, the Department) has determined that WCS is the only BOA awardee capable of providing the required services at the level of quality required because the services ordered are unique or highly specialized.

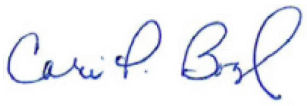
This Notice requires the BOA Holder to initiate and develop a proposal for Elemental Mercury Long-Term Storage and Management in accordance with the Performance Work Statement included in this notice. The work to be performed under this Request for Task Proposal is in accordance with the terms and conditions of Section C.03.5, Ancillary Services, of the BOA.

The BOA Holder's response to this notice should be returned to the DOE no later than 5:00 PM ET on January 23, 2019.

Please note that the Department will not schedule waste shipments to WCS under this task order until the BOA Holder has satisfied the requirements to be determined a facility "of DOE", as required by the Mercury Export Ban Act (MEBA) (P.L. 110-414), and as amended by the Lautenberg Chemical Safety for the 21st Century Act (the Act), and is in compliance with applicable procedures, standards and criteria, and requirements of the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.], including the requirements of subtitle C of that Act [42 U.S.C. 6921 et seq.], except that elemental mercury that DOE is storing on a long-term basis shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)). Furthermore, this work is to be performed in compliance with all applicable Federal, State, and local laws and regulations, Executive Orders, Regulatory Permits, and Agreements and Orders.

Please contact Carin P. Boyd, Contracting Officer, at 513-246-0570 if further information on this matter is needed. Please email to Carin.Boyd@emcbc.doe.gov.

Sincerely,



Carin P. Boyd
Contracting Officer
Office of Contracting

Enclosure: Request for Task Proposal
WAC DOE/EM-0007

SECTION B
SUPPLIES OR SERVICES AND PRICES/COSTS

B.01 TYPE OF TASK ORDER (T.O.) - ITEMS BEING ACQUIRED

Elemental Mercury Long-Term Storage and Management. This is a Firm-Fixed Price (FFP) Task Order for the technical and administrative services to operate a facility of the U.S. Department of Energy ("of DOE") for the long-term storage and management of Elemental Mercury in support of the DOE's responsibilities under the Mercury Export Ban Act (MEBA) (P.L. 110-414), and as amended by the Lautenberg Chemical Safety for the 21st Century Act (the Act).

The Contractor shall be responsible to furnish personnel, labor, facilities, office furniture, equipment, material, services, and supplies for personnel (except as set forth in this task order to be furnished by DOE or others), and otherwise perform work in a safe, integrated, effective, and efficient manner in accordance with the terms and conditions of the BOA and resulting task order.

B.02 CONTRACT LINE ITEMS (CLINs)

CLIN	DESCRIPTION	ESTIMATED QUANTITY	UNIT PRICE	EXTENDED AMOUNT
0001	Elemental Mercury Long-Term Storage and Management	1,206 MT*	**$**_____	**$**_____

UNIT OF MEASURE=METRIC TONS (MT)

SECTION C
PERFORMANCE WORK STATEMENT

TABLE OF CONTENTS

C.01 OBJECTIVE

The objective of this Task Order is to establish Long-Term Storage and Management of Elemental Mercury Services in support of the DOE's responsibilities under the Mercury Export Ban Act (MEBA) (P.L. 110-414), as amended by the Lautenberg Chemical Safety for the 21st Century Act (the Act).

The Mercury Export Ban Act of 2008, hereafter referred to as "MEBA," prohibits, as of October 14, 2008, any Federal agency from conveying, selling, or distributing to any other Federal agency, any state or local government agency, or any private individual or entity any elemental mercury under the control or jurisdiction of the Federal agency (with certain limited exceptions, as described in the Act). The Act also prohibits the export of mercury from the United States effective January 1, 2013 (subject to certain essential-use exemptions). MEBA requires the DOE to designate a site (or sites) for the long-term storage of elemental mercury originating from domestic sources.

The Frank R. Lautenberg Chemical Safety for the 21st Century Act (Codified in 42 U.S.C. § 6939f), signed into law on June 22, 2016, amended MEBA in several significant ways affecting DOE as follows:

1. The date for operation of a storage facility for elemental mercury is revised from January 1, 2013 to January 1, 2019;
2. The date for DOE to establish a fee structure is revised from October 1, 2012, to October 1, 2018;
3. If the DOE facility is not operational by January 1, 2019, the fees shall be adjusted by subtracting the costs to generators for temporarily accumulating elemental mercury in existing storage facilities; and
4. If DOE has no facility in operation by January 1, 2020, the Department must take title to all elemental mercury that has accumulated at generators producing elemental mercury incidentally from processing of ore or related pollution control activities before January 1, 2020, and pay for the associated permitting and storage costs.

The site(s) is/are expected to store elemental mercury from multiple domestic sources.

The estimated available inventory is provided in Table 1 below:

Table 1. Projected Mercury Storage Inventory

Date	Estimated Available Inventory (MT)*
1/1/19	648 - 655
2/1/19	660 - 674
3/1/19	672 - 693
4/1/19	684 - 712
5/1/19	696 - 731
6/1/19	708 - 750
7/1/19	720 - 769
8/1/19	732 - 788
9/1/19	744 - 807
10/1/19	756 - 826

MT = Metric Tons

Estimated Available Inventory represents DOE's best estimate for the dates shown. Actual inventory may vary. Available inventory is expected to grow by 12 – 19 MT per month through the term of the task order. Maximum expected inventory by June 2021 is approximately 1,206 MT.

The general activities within the scope of this PWS include but are not limited to:

- Provide and maintain permits necessary to allow for the indefinite storage of elemental mercury generated off-site. Provide any actions necessary for obtaining and maintaining such permit(s).
- Develop and implement a means to allow the facility to be considered a facility of the Department of Energy in accordance with the requirements of 42 U.S.C. § 6939f(a)(1).
- Provide a facility capable of receiving, inspecting, handling, and storing elemental mercury meeting the Waste Acceptance Criteria (WAC) (WAC DOE/EM-0007).
- Develop and execute a receipt/verification process for the acceptance of elemental mercury and mercury containers.
- Develop and execute standards and procedures for the operation of the elemental mercury storage facility.
- Develop and implement a campaign for receipt of all available inventory on the date that the facility receives permitted authority to store elemental mercury indefinitely.
- Maintain a Resource Conservation Recovery Act (RCRA) permit for the storage of elemental mercury for the duration of the task order.

Any storage facility to be used in performance of this task to store elemental mercury shall comply with the Mercury Export Ban Act (MEBA) (P.L. 110-414), and as amended by the Lautenberg Chemical Safety for the 21st Century Act (the Act), and in compliance with applicable procedures, standards and criteria, and requirements of the Solid Waste Disposal Act (SWDA) (42 USC §§ 6901 et seq.), as amended by the Resource Conservation and Recovery Act (RCRA)(42 USC §§ 6921 et seq.), except that elemental mercury that DOE is storing on a long-term basis shall not be subject to the storage prohibition of section 3004(j) of the Solid Waste Disposal Act (42 U.S.C. 6924(j)). Furthermore, this work is to be performed in compliance with all applicable Federal, State, and local laws and regulations, Executive Orders, Regulatory Permits, and Agreements and Orders.

C.02 BACKGROUND

Long-term storage and management of elemental mercury is an element of the U.S. strategy to reduce mercury pollution domestically and world-wide. Banning the export of mercury from the U.S. is expected to result in additional surplus inventories of mercury.

To achieve these strategic goals, the Mercury Export Ban Act of 2008 (P.L. 110-414) (MEBA), enacted October 14, 2008, prohibits the sale, distribution, and transfer of elemental mercury by Federal agencies (with certain exceptions); prohibits the export of elemental mercury (subject to potential essential use exemptions) effective January 1, 2013; requires the DOE to designate and manage a facility for long-term storage of elemental mercury; and requires that various reports be submitted to Congress.

On June 22, 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act was signed into law amending MEBA in several significant ways affecting DOE as follows:

- The date for operation of a storage facility for elemental mercury is revised from January 1, 2013 to January 1, 2019.
- The date for DOE to establish a fee structure is revised from October 1, 2012, to October 1, 2018.
- If the DOE facility is not operational by January 1, 2019, the fees shall be adjusted by subtracting the costs to generators for temporarily accumulating elemental mercury in existing storage facilities.
- If DOE has no facility in operation by January 1, 2020, the Department must take title to all elemental mercury that has accumulated at generators producing elemental mercury incidentally from processing of ore or related pollution control activities before January 1, 2020, and pay for the associated permitting and storage costs.

The development of a facility that can accept and safely store elemental mercury from both DOE and industry generators is consistent with the legislative mandate in MEBA and the Act.

C.03 CONTRACTOR PERFORMANCE

Licenses, Permits and Regulatory:

C.03.1 The Contractor shall furnish personnel, labor, facilities, office furniture, equipment, material, services, and supplies for Contractor personnel (except as set forth in this task order to be furnished by DOE or others), and otherwise perform work in a safe, integrated, effective, and efficient manner in accordance with the terms and conditions of the BOA and resulting task orders.

C.03.2 The Contractor shall possess, maintain and keep current appropriate licenses and permits as required by federal, state and local laws and ordinances that enable receipt and storage of elemental mercury.

C.03.3 Environmental, Safety and Health and Quality (ESH&Q) Assurance requirements shall apply, consistent with licenses and permits.

Title:

C.03.4 Waste to be treated was generated as a result of operations and activities at commercial facilities. Responsibility for the waste transfers from the elemental mercury producer to the DOE. DOE retains title through ultimate disposition, in accordance with MEBA.

Transportation:

C.03.5 The elemental mercury producer is responsible for the transportation of the waste to the elemental mercury storage facility.

C.03.6 The Contractor shall unload the elemental mercury using appropriate safety standards, guidelines, facility procedures and in accordance with its licenses, permits, and Federal, state, and local laws and ordinances.

C.03.7 In the event that the Contractor discovers that the transportation vehicle, rail car, containers, packaging, and/or markings of the delivered waste or material has failed to meet the U.S. Department of Transportation (DOT) requirements or any other applicable requirements, the Contractor shall document the infraction and notify the elemental mercury producer within 24 hours by telephone upon discovery, and in writing within 48 hours. See requirements under Nonconformance.

Operations:

C.03.8 The Contractor shall not co-mingle elemental mercury accepted in accordance with MEBA (42 U.S.C. § 6939f) with other elemental mercury waste.

C.03.9 The Contractor shall complete all appropriate packaging, and certification functions within the provisions established in this task order and all applicable regulatory requirements.

Reporting Requirements:

C.03.10 The Contractor shall provide complete documentation of: site permits for elemental mercury storage, RCRA permits, Waste Acceptance Criteria (WAC), and any other authorizations, applicable exemptions, revisions, and other requirements, etc., documenting that the Contractor is permitted to receive, handle, and store elemental mercury.

C.03.11 For all Notice of Violations (NOVs) issued by regulatory agencies that may impact storage of elementary mercury, the Contractor shall notify the DOE Contracting Officer (CO) and the DOE Contracting Officer's Representative (COR) in writing within 24 hours.

C.03.12 On an annual basis, the Contractor shall provide an Elemental Storage Report to the DOE CO and the Office of Legacy Management documenting source, weight, and characterization data.

Nonconformance:

C.03.13 The Contractor shall have no obligation to receive, handle or store any nonconforming waste material delivered to the Contractor's facility which is defined as: material delivered that does not comply with the Contractor's permits or regulations, and/or that does not comply with the transportation manifest (e.g., manifesting errors, contamination resulting from failure to comply with packaging, marking and shipment of material in accordance with DOT requirements.

C.03.14 Upon delivery to the Contractor's facility, if the loaded transport vehicle, containers or waste do not conform to the requirements of the treatment facility's permits, DOT, or the transportation manifest, or arrive damaged or unusually difficult to unload, the Contractor shall notify the elemental mercury producer within 24 hours by telephone (to be followed by written notification within 48 hours) of the discovery for negotiation of a resolution. Non-conforming items may be identified upon receipt of the transport vehicle, during or after unloading, during sampling and/or treatment.

C.03.15 The Contractor shall be responsible for planning, integrating, managing, and executing the programs, projects, operations, and other activities as described in this Performance Work Statement (PWS).

C.03.16 Contractor personnel shall be expected to perform the activities described in this PWS with minimum oversight and guidance by DOE, while in compliance with all applicable procedures. The Contractor shall ensure that duties are performed in a competent, professional manner that meets established milestones and adheres to established schedules. Work products are expected to be thorough, timely, accurate, appropriately documented, and comply with established criteria. Some work products shall include highly sensitive information and recommendations. The Contractor shall maintain the confidentially of information as dictated by the requesting party.

C.04 LONG-TERM ELEMENTAL STORAGE FACILITY

C.04.1 System Description of the Elemental Mercury Storage Facility

Major characteristics of the mercury storage facility shall include, but shall not be limited to, the following:

C.04.1.1 Adequate space for the long-term management and storage of containerized elemental mercury for the minimum anticipated quantity projected during the task order period using the estimated quantities available in Table 1.

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C.04.1.2 Receive mercury in various DOT-compliant bottles, flasks, drums, vessels, possibly with over-packs.

C.04.1.3 If, upon inspection of a container, it is found to be damaged or otherwise unacceptable per the requirements of the WAC, the Contractor shall work with the owner of the mercury to allow it to be safely returned to the owner at the owner's expense.

RCRA-regulated/permitted compliant storage that includes RCRA-required features such as spill containment features and emergency response procedures, security and access control, fire suppression systems, environmentally-controlled receiving, storage, and handling area(s), fully-enclosed, weather-protected, building code compliant building, and facility floors able to withstand structural loads of mercury storage. Storage complies with federal, state, and local regulations.

C.04.1.4 Infrastructure for the management (e.g. record-keeping, inspection, security, emergency response, worker training, infrastructure systems, human resource spaces, etc.) of the mercury storage program.

C.04.2 Performance Requirements

The facility shall provide the capability to indefinitely store elemental mercury that conforms to the requirements of the WAC.

C.04.3 Functional Requirements

The mercury storage facility shall include space for the following five major functions necessary for receipt, inspection, and long-term management and storage of mercury:

C.04.3.1 Receiving and Shipping. This shall include space(s) for the receipt, inspection, and handling of mercury containers. It shall allow for truck docking, offloading, inspection and transfer of received mercury to the facility. It shall also allow for inspection, packaging, marking, manifesting, and truck docking and loading for shipments of elemental mercury, when disposition is available, and secondary waste out of the storage facility. It shall be adjacent to the Handling and Storage Areas.

The functions performed include:

C.04.3.1.1 Visual and air sample analysis inspection of the received shipment for container conditions and signs of mercury leakage.

C.04.3.1.2 Segregation of hazardous and non-hazardous other materials arriving along with mercury containers that are not intended to be included in long-term storage. This material may include truck bracing, cushioning, and packaging materials.

C.04.3.1.3 Disposition and disposal of materials received that are not to be placed into long-term storage.

C.04.3.2 Handling. This shall include space(s) for acceptance/verification of incoming containers and for work involving potential contamination, including (1) safely handling and cleaning palletized or individual containers that have external mercury contamination, and/or (2) repackaging mercury from containers that have failed inspection, (3) inspection, sorting (hazardous and non-hazardous) and segregation, and disposition of incoming materials that are not intended for long-term storage (such as cargo bracing, padding, cushioning, etc.) This area shall also serve for non-routine and emergency response activities for leaking flasks and/or containers. The area shall be enclosed and have a dedicated heating, ventilation, air-conditioning (HVAC) system.

The functions performed include but are not limited to:

C.04.3.2.1 Verification of received shipments' compliance with the acceptance criteria including possible mercury sampling. (Physical and chemical analysis shall be performed, as necessary.)

C.04.3.2.2 Preparedness and response to any plausible mercury vapor or liquid release, including the physical and material resources to perform the response.

C.04.3.2.3 Disposition and disposal of materials and items used during mercury handling or spill response that are not to be placed into long-term storage.

C.04.3.3 Storage Area. This shall include space for the storage of mercury containers. Composing the bulk of the facility, this enclosed area shall have ample storage and aisle space for compliant, tracked placement and retrieval of all containers (e.g., 3-L and 1-MT capacity). The space shall be adequately lit, with appropriate ventilation, spill containment, and fire protection.

The functions performed include:

C.04.3.3.1 The mercury storage configuration shall provide tertiary mercury spill containment. The use of only acceptable mercury containers shall provide the primary containment. The mercury containers shall be placed in spill containment trays, which provide secondary containment. The tertiary containment shall be provided by the Storage Area floor.

C.04.3.3.2 The configuration of the mercury containers, spill trays and floor shall be designed to enhance the efficacy of inspections for mercury leakage. All spill trays shall be supported above the storage area floor to permit inspection of the bottom, exterior surfaces of the spill containment trays.

C.04.3.4 Office Administration and Employee Support. Sufficient space shall be provided to support the management, operations, training, and all other administrative functions supporting the mercury storage. Examples include the storage and maintenance of records, waste verification documents, shipping papers, and databases. These spaces should be located separately from the areas where mercury containers are handled and stored.

C.04.3.5 Infrastructure. Infrastructure systems provided to support to mercury storage such as electrical power distribution, electronic security equipment, information and communications systems, fire suppression riser(s), HVAC, environmental, and maintenance.

C.04.4 RCRA Compliance Requirements

The long-term management and storage facility for elemental mercury shall maintain a RCRA permit for the duration of the task order.

C.04.4.1 The facility shall have a floor with adequate strength to withstand the loads of mercury storage. A floor coating system shall be applied to make the floors in the mercury areas impervious to mercury spills and water released from fire suppression systems.

C.04.4.2 The storage facility shall be constructed to form a weather-protected structure.

C.04.4.3 Lighting, HVAC, fire suppression, and security monitoring systems shall be provided as required by the permit.

C.04.4.4 The facility shall include a paved area for delivery truck access and vehicle parking.

C.04.5 Security

C.04.5.1 Regulatory requirements for storage facility security shall, at a minimum, include requirements from RCRA, applicable state and local regulations, and DOE directives. In addition, certain site-specific security provisions may be applicable. Certain security measures from the Environmental Council of the States (Mercury Stewardship Best Management Practices; October 2003) are considered BMPs. These BMP practices may be considered if they provide additional security capability if it is determined to be suitable enhancements for the mercury storage facility.

C.04.5.2 The elemental mercury storage facility shall meet the standards for a hazardous waste transportation, storage and disposal (TSDF) under the requirements of RCRA, 40 CFR Part 264 (facilities) and 40 CFR Part 265 (interim status facilities). Sections 264.14 and 265.14 list these security requirements.

SECTION D
PACKAGING AND MARKING

Section D of the Waste Treatment BOA is applicable in its entirety.

SECTION E
INSPECTION AND ACCEPTANCE

Section E of the Waste Treatment BOA is applicable in its entirety.

SECTION F
DELIVERIES OR PERFORMANCE

Section F of the Waste Treatment BOA is applicable in its entirety and is hereby incorporated by reference. Additional Section F clauses related to this task order are listed below.

F.1 FIXED PRICE CLAUSES

FAR 52.242-15 STOP-WORK ORDER. (AUG 1989) – ALTERNATE I (APR 1984)
FAR 52.242-17 GOVERNMENT DELAY OF WORK (APR 1984)

F.2 DOE-F-2002 PLACE OF PERFORMANCE - SERVICES (OCT 2014)

The services specified by this task order shall be performed at the following location(s):

Waste Control Specialists, LLC Contractor's Facility(ies) in Andrews, TX.

F.3 DOE-F-2003 PERIOD OF PERFORMANCE – Alternate I (OCT 2014)

(a) The Contractor shall commence performance of this Task Order in accordance with the BOA terms and conditions from Task Order award date and continue through 30 months, or 2.5 years from the date of award.

SECTION G
TASK ORDER ADMINISTRATION DATA

Section G of the Waste Treatment BOA is applicable in its entirety. The specific Section G clauses of the BOA applicable to this task order are listed below and are hereby incorporated by reference:

G.01 GOVERNMENT CONTACT FOR TASK ORDER ADMINISTRATION

The Contractor shall use the Designated Contracting Officer (DCO) at the address provided as the point of contact for all administrative matters regarding the task order, with the exception of technical matters. The DCO's name and address is as follows:

Designated Contracting Officer – Carin P. Boyd
U. S. Department of Energy
Environmental Management Consolidated Business Center
250 E 5th Street Suite 500
Cincinnati, Ohio 45202
Phone: (513) 246-0570
Email: Carin.Boyd@emcbc.doe.gov

The Contractor shall use the Designated Contracting Officer Representative (DCOR) at the address provided as the point of contact for all technical matters. The DCOR's name and address is as follows:

Designated Contracting Officer Representative – David Haught
Office of Waste Disposal
Office of Environmental Management
U.S. Department of Energy
Phone: (301) 903-1765
Email: David.Haught@hq.doe.gov

Specific duties and responsibilities of the DCOR are those delegated in the Contracting Officer's Representative Delegation for this task order and listed under the Technical Direction clause 952.242-70 in Section H of the BOA.

G.02 TRACKING NUMBER

The tracking number for this task order is: EMSP02

G.03 POINT OF CONTACT FOR DEFECTIVE / IMPROPER INVOICES:

TBD

SECTION H
SPECIAL TASK ORDER REQUIREMENTS

Section H of the Waste Treatment BOA is applicable in its entirety and is hereby incorporated by reference. Additional Section H terms and conditions related to this task order are listed below:

H.01 SPECIFIC TASK ORDER TERMS AND CONDITIONS

The terms and conditions under this Task Order are strictly specific to the work being performed under this task order. The Contractor mutually agrees to the placement of these terms and conditions. **In the event of any conflict between the task order and BOA, the BOA terms and conditions shall control.**

SECTION I
CONTRACT CLAUSES

All clauses related to fixed price task orders listed in Section I of the Waste Treatment BOA DE-EM0003716 are applicable in their entirety. Specifically, the following fixed price clauses are provided below for reference:

FAR 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)
FAR 52.232-1 PAYMENTS (APR 1984)
FAR 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)
FAR 52.232-11 EXTRAS (APR 1984)
FAR 52.232-16 PROGRESS PAYMENTS (APR 2012) ALTERNATE I (MAR 2000)
FAR 52.233-3 PROTEST AFTER AWARD (AUG 1996)
FAR 52.243-1 CHANGES - FIXED PRICE (AUG 1987) - ALTERNATE I (APR 1984)
FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED- PRICE) (MAY 2004)
FAR 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)

SECTION J
LIST OF ATTACHMENTS

The following are in addition to those contained in the Treatment BOA, DE-EM0003716, Section J.

DOE/EM-0007	Waste Acceptance Criteria for the Storage of Elemental Mercury at the U.S. Department of Energy Long-Term Elemental Mercury Storage Facility dated 12/12/2018

ATTACHMENT A: DELIVERABLES

The below List of Deliverables are directly required under this task order in accordance with Section C.. Please note any omission of any deliverable from the List of Deliverables does not affect the obligation of the Contractor to comply with the deliverable requirements.

Specific Task Order Deliverables				
	Description	**Due Date**	**PWS Reference**	**DOE POC**
1.	TBD			
2.				
3.				
4.				

ATTACHMENT B

LIST OF APPLICABLE LAWS, REGULATIONS and DOE DIRECTIVES

Section J – Attachment J.1 of the Treatment BOA, DE-EM0003716, is applicable in its entirety and is hereby incorporated by reference, unless otherwise noted.