Section H - Special Contract Requirements

Table of Contents

H.1 DOE-H-2013 CONSECUTIVE NUMBERING (OCT 2014) 4

I. CONTRACTOR HUMAN RESOURCE MANAGEMENT (CHRM) CLAUSES 4

H.2 DOE-H-2002 NO THIRD PARTY BENEFICIARIES (OCT 2014) 4

H.3 DEFINITIONS 4

H.4 WORKFORCE TRANSITION AND EMPLOYEE HIRING PREFERENCES, INCLUDING THROUGH PERIOD OF PERFORMANCE 5

H.5 DOE-H-2001 EMPLOYEE COMPENSATION: PAY AND BENEFITS (JAN 2016) 7

H.6 SPECIAL PROVISIONS APPLICABLE TO WORKFORCE TRANSITION AND EMPLOYEE COMPENSATION: PAY AND BENEFITS 18

H.7 WORKFORCE TRANSITION AND BENEFITS TRANSITION: PLANS AND TIMEFRAMES 21

H.8 DOE-H-2004 POST CONTRACT RESPONSIBILITIES FOR PENSION AND OTHER BENEFIT PLANS (Oct 2014) 26

H.9 DOE-H-2028 LABOR RELATIONS (OCT 2014) 27

H.10 WORKFORCE RESTRUCTURING 29

H.11 LABOR STANDARDS 31

H.12 DOE-H-2003 WORKER'S COMPENSATION INSURANCE (OCT 2014) 32

H.13 DOE-H-2049 INSURANCE REQUIREMENT (OCT 2014) 32

H.14 DOE-H-2057 DEPARTMENT OF LABOR WAGE DETERMINATIONS (OCT 2014)(DEVIATION) 33

H.15 DOE-H-2073 RISK MANAGEMENT AND INSURANCE PROGRAMS (DEC 2014) 33

II. BUSINESS SYSTEMS CLAUSES 36

H.16 DOE-H-2022 CONTRACTOR BUSINESS SYSTEMS (OCT 2014) 36

H.17 DOE-H-2023 COST ESTIMATING SYSTEM REQUIREMENTS (OCT 2014) 40

H.18 DOE-H-2024 EARNED VALUE MANAGEMENT SYSTEM (OCT 2014) 44

H.19 DOE-H-2025 ACCOUNTING SYSTEM ADMINISTRATION (OCT 2014) 49

H.20 DOE-H-2026 CONTRACTOR PURCHASING SYSTEM ADMINISTRATION (OCT 2014) 51

H.21 DOE-H-2027 CONTRACTOR PROPERTY MANAGEMENT SYSTEM ADMINISTRATION (OCT 2014) 55

III. DOE CORPORATE CLAUSES OTHER THAN CHRM OR BUSINESS SYSTEMS 57

H.22 DOE-H-2006 DEFENSE NUCLEAR FACILITY SAFETY BOARD (OCT 2014) 57

H.23 DOE-H-2012 SUSTAINABLE ACQUISITION UNDER DOE CONSTRUCTION CONTRACTS (OCT 2014) 57

H.24 DOE-H-2014 CONTRACTOR ACCEPTANCE OF NOTICE OF VIOLATION OR ALLEGED VIOLATIONS, FINES, AND PENALTIES (OCT 2014) 58

H.25 DOE-H-2016 PERFORMANCE GUARANTEE AGREEMENT (OCT 2014) 59

H.26 DOE-H-2017 RESPONSIBLE CORPORATE OFFICIAL AND CORPORATE BOARD OF DIRECTORS (OCT 2014) 59

H.27 DOE-H-2018 PRIVACY ACT SYSTEMS OF RECORDS (OCT 2014) (REVISED) 60

DRAFT

H.28 DOE-H-2019 DISPOSITION OF INTELLECTUAL PROPERTY – FAILURE TO COMPLETE CONTRACT PERFORMANCE (OCT 2014) 61

H.29 DOE-H-2020 PRICE-ANDERSON AMENDMENTS ACT NONCOMPLIANCE (OCT 2014) 62

H.30 DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014) 62

H.31 DOE-H-2033 ALTERNATIVE DISPUTE RESOLUTION (OCT 2014) 64

H.32 DOE-H-2034 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES (OCT 2014) 65

H.33 DOE-H-2035 ORGANIZATIONAL CONFLICT OF INTEREST MANAGEMENT PLAN (OCT 2014) REVISED 65

H.34 DOE-H-2037 NATIONAL ENVIRONMENTAL POLICY ACT (OCT 2014) 66

H.35 DOE-H-2041 SUSTAINABLE ACQUISITION UNDER DOE SERVICE CONTRACTS (OCT 2014) 66

H.36 DOE-H-2043 ASSIGNMENT AND TRANSFER OF SUBCONTRACTS (OCT 2014) 67

H.37 DOE-H-2044 MATERIAL SAFETY DATA SHEET AVAILABILITY (OCT 2014) 68

H.38 DOE-H-2045 CONTRACTOR COMMUNITY COMMITMENT (OCT 2014) 68

H.39 DOE-H-2046 DIVERSITY PROGRAM (OCT 2014) 69

H.40 DOE-H-2048 PUBLIC AFFAIRS – CONTRACTOR RELEASES OF INFORMATION (OCT 2014) 70

H.41 DOE-H-2050 INCORPORATION OF SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2014) 70

H.42 DOE-H-2052 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR – ALTERNATE I (OCT 2014) (DEVIATION) 70

H.43 DOE-H-2053 WORKER SAFETY AND HEALTH PROGRAM IN ACCORDANCE WITH 10 CFR 851 (OCT 2014) 70

H.44 DOE-H-2055 GOVERNMENT FURNISHED PROPERTY (OCT 2014) 71

H.45 DOE-H-2056 ANNUAL INDIRECT BILLING RATES (OCT 2014) 72

H.46 DOE- H-2058 DESIGNATION AND CONSENT OF MAJOR OR CRITICAL SUBCONTRACTS (OCT 2014) 73

H.47 DOE-H-2059 PRESERVATION OF ANTIQUITIES, WILDLIFE AND LAND AREAS (OCT 2014) 73

H.48 DOE-H-2061 CHANGE ORDER ACCOUNTING (OCT 2014) 74

H.49 DOE-H-2062 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL - ALTERNATE I (OCT 2014) 74

H.50 DOE-H-2063 CONFIDENTIALITY OF INFORMATION (OCT 2014) 74

H.51 DOE-H-2064 USE OF INFORMATION TECHNOLOGY EQUIPMENT, SOFTWARE, AND THIRD PARTY SERVICES - ALTERNATE II (OCT 2014) 76

H.52 DOE-H-2065 REPORTING OF FRAUD, WASTE, ABUSE, CORRUPTION, OR MISMANAGEMENT (OCT 2014) 77

H.53 DOE-H-2066 SAFEGUARDS AND SECURITY PROGRAM – ALTERNATE I (OCT 2014) 78

H.54 DOE-H-2067 GOVERNMENT FURNISHED ON-SITE FACILITIES OR SERVICES (OCT 2014) 78

H.55 DOE-H-2068 CONFERENCE MANAGEMENT (OCT 2014) (DEVIATION) 78

H.56 DOE-H-2069 PAYMENTS FOR DOMESTIC EXTENDED PERSONNEL ASSIGNMENTS (OCT 2014) 81

DRAFT

H.57 DOE-H-2070 KEY PERSONNEL_ALTERNATE I (OCT 2014) (DEVIATION) 82
H.58 DOE-H-2071 DEPARTMENT OF ENERGY DIRECTIVES (OCT 2014) 83
H.59 DOE-H-2072 USE OF GOVERNMENT VEHICLES BY CONTRACTOR EMPLOYEES (OCT 2014) 84
H.60 DOE-H-2075 PROHIBITION ON FUNDING FOR CERTAIN NONDISCLOSURE AGREEMENTS (OCT 2014) 85
H.61 DOE-H-2076 LOBBYING RESTRICTIONS (OCT 2014) 86
IV OTHER CLAUSES 86
H.62 SELF-PERFORMED WORK 86
H.63 PARENT ORGANIZATION SUPPORT 87
H.64 EM-H-1001 QUALITY ASSURANCE FOR WORK AFFECTING NUCLEAR SAFETY 87
H.65 ENVIRONMENTAL RESPONSIBILITY 88
H.66 PARTNERING 90
H.67 NNSA/EM STRATEGIC SOURCING PARTNERSHIP 90
H.68 INTEGRATED WORK CONTROL SYSTEMS AND REPORTING REQUIREMENTS (April 2016) 91
H.69 UNALLOWABLE COSTS 97

DRAFT

H.1 DOE-H-2013 CONSECUTIVE NUMBERING (OCT 2014)

Due to automated procedures employed in formulating this document, clauses and provisions contained within may not always be consecutively numbered.

I. CONTRACTOR HUMAN RESOURCE MANAGEMENT (CHRM) CLAUSES

H.2 DOE-H-2002 NO THIRD PARTY BENEFICIARIES (OCT 2014)

This Contract is for the exclusive benefit and convenience of the parties hereto. Nothing contained herein shall be construed as granting, vesting, creating or conferring any right of action or any other right or benefit upon past, present or future employees of the Contractor, or upon any other third party. This provision is not intended to limit or impair the rights which any person may have under applicable Federal statutes.

H.3 DEFINITIONS

For purposes of Clauses H. 4, Workforce Transition and Employee Hiring Preferences through H.7, Workforce Transition and Benefits Transition: Plans and Timeframes, the following definitions are applicable (unless otherwise specified):

(A) "BWCS" means BWXT Conversion Services, Inc. and its first and second tier subcontractors under DOE Contract DE-AC-3011CC40015 at Paducah Gaseous Diffusion Plant.

(B) "Contract Award Date" means the date the contract is signed by the Contracting Officer, noted in Block 28 of the SF 33.

(C) "Contract Transition Period" means the 120 day transition as defined in Section F of this Contract.

(D) "Grandfathered Employees" means those whom the East Tennessee Technology Park Pension Plan for Grandfathered Employees (ETTP MEPP) defines as "Grandfathered Employees".

(E) "Non-Grandfathered Employees" means employees who are not defined as Grandfathered Employees under the ETTP MEPP in accordance with the terms of the ETTP MEPP and applicable law

(F) "Incumbent Contractors" means Fluor Federal Services, Inc., and its first tier subcontractor, LATA-Sharp Remediation Services L.L.C. (LSRS), performing work under DOE Task Order No. DE-DT0007774 at the Paducah Gaseous Diffusion Plant.

(G) "Incumbent Employees" means employees who hold regular appointments or who are regular employees as of the date of award, and on the roles of the Incumbent Contractors as of the date of Contract Award.

(H) "Non-Incumbent Employees" are employees other than Incumbent Employees.

(I) "USEC" means the United States Enrichment Corporation.

(J) "USEC Employees" means those individuals who were regular employees of USEC at the Paducah Gaseous Diffusion Plant Site.

(K) "UCOR" means URS/CH2M Oak Ridge, LLC under Contract DE-SC0004645. UCOR is the current lead sponsor of the ETTP MEPP.

(L) "SSI" means Swift & Staley Inc.(SSI) and its first and second tier subcontractors under DOE Contract DE-EM-0003733 at the Paducah Gaseous Diffusion Plant Site.

(M) "Notice to Proceed (NTP)" means the authorization issued by the Contracting Officer to start performance on this Contract or as otherwise defined in this Contract.

H.4 WORKFORCE TRANSITION AND EMPLOYEE HIRING PREFERENCES, INCLUDING THROUGH PERIOD OF PERFORMANCE

The Contractor shall comply with the hiring preferences set forth below:

(A) The Contractor shall comply with the right of first refusal for employment for service employees and all of the requirements set forth in FAR 52.222-17 for the applicable work and positions. If a qualified service employee declines a bona fide express offer of employment, the Contractor need not provide the preference in hiring in paragraphs (B)(1)(a) and (b) below to such employee, but should provide the other preferences in Paragraph (B) below, as applicable.

(B) The Contractor shall provide, during the transition period and throughout the period of performance, preferences in hiring for vacancies for non-managerial positions (i.e., all those below the first line of supervision) in non-construction activities of the PWS under this Contract, in accordance with the hiring preferences in paragraphs (1) – (4) below (subject to paragraph (A) above, in descending order of priority, any applicable collective-bargaining agreement(s), applicable law, and applicable site seniority lists as provided to the Contractor by the Contracting Officer), as set forth below.

(1) The Contractor shall provide Incumbent Employees the preferences in paragraphs (a) through (b) in descending order of priority:

(a) A right of first refusal for vacancies in non-managerial positions that are comparable to the positions the above employees held at the time of award.

(b) A preference in hiring for vacancies in non-managerial positions for the above employees who meet the qualifications for the position

(c) A preference in hiring for vacancies in non-managerial positions for the above employees who may not meet the qualifications for the position, but who agree to become qualified and can become qualified by the commencement of active employment under this Contract with the training as provided in paragraph (6) below.

(2) The Contractor shall give a preference in hiring to individuals (1) who are former employees of FFS, LSRS, SSI, and BWCS or USEC and (2) who are entitled to recall rights consistent with any applicable site seniority lists and any applicable collective bargaining agreements(s) at the Paducah Gaseous Diffusion Plant.

(3) The Contractor shall give a preference in hiring to individuals set forth below in paragraphs (a) – (b), in descending order of priority, who are eligible for the hiring preference contained in the clause in Section I of this Contract entitled "DEAR 952.226-74, Displaced Employee Hiring Preference" (including USEC Employees who are eligible for the preference pursuant to 42. U.S.C. 2297h-8(a)(5)) consistent with the provisions of any applicable Work Force Restructuring Plan, as amended from time to time, regarding the preferential hiring of employees:

(a) Grandfathered Employees who are former employees of FFS and LSRS at the Paducah Gaseous Diffusion Plant, and

(b) Former employees of FFS, LSRS, SSI, BWCS or USEC or any other DOE contractor at the Paducah Gaseous Diffusion Plant Site; and

(c) Former employees of any other DOE contractor or subcontractor at a DOE defense nuclear facility.

(4) The Contractor shall give a preference in hiring to individuals (a) who were formerly employed at the Paducah Gaseous Diffusion plant by FFS, LSRS, SSI, BWCS or USEC and (b) who were involuntarily separated (other than for cause) from employment at the Paducah Gaseous Diffusion Plant; (b) who are qualified for a particular position or who may not meet the qualifications for a particular position, but who agree to become qualified and can become qualified by the commencement of active employment under this Contract.

(5) The Contractor shall give a preference in hiring to individuals (1) who have separated from employment at the Paducah Gaseous Diffusion Plant, (2) who are not precluded from seeking employment at the Paducah Gaseous Diffusion Plant by the terms of employee waivers or releases of claims they executed absent repayment of severance consistent with the terms of those agreements; and (3) who are qualified for a particular position or who may not meet the qualifications for a particular position, but who agree to become qualified and can become qualified by the commencement of active employment under this Contract.

DRAFT

(6) The Contractor will establish a training program specifically for the purpose of training individuals for the purpose specified in paragraph (B)(1)(c) above.

H.5 DOE-H-2001 EMPLOYEE COMPENSATION: PAY AND BENEFITS (JAN 2016)

(A) Contractor Employee Compensation Plan

The Contractor shall submit, for Contracting Officer approval, by close of contract transition, a Contractor Employee Compensation Plan demonstrating how the Contractor will comply with the requirements of this Contract. The Contractor Employee Compensation Plan shall describe the Contractor's policies regarding compensation, pensions and other benefits, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.

A description of the Contractor Employee Compensation Program should include the following components;

(1) Philosophy and strategy for all pay delivery programs.
(2) System for establishing a job worth hierarchy.
(3) Method for relating internal job worth hierarchy to external market.
(4) System that links individual and/or group performance to compensation decisions.
(5) Method for planning and monitoring the expenditure of funds.
(6) Method for ensuring compliance with applicable laws and regulations.
(7) System for communicating the programs to employees.
(8) System for internal controls and self-assessment.
(9) System to ensure that reimbursement of compensation, including stipends, for employees who are on joint appointments with a parent or other organization shall be on a pro-rated basis.

(B) Total Compensation System

The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system consistent with FAR 31.205-6 and DEAR 970.3102-05-6; "Compensation for Personal Services". DOE-approved standards (e.g., set forth in an advance understanding or appendix), if any, shall be applied to the Total Compensation System. The Contractor's Total Compensation System shall be fully documented, consistently applied, and acceptable to the Contracting Officer. Costs incurred in implementing the Total Compensation System shall be consistent with the Contractor's documented Contractor Employee Compensation Plan as approved by the Contracting Officer.

(C) Reports and Information

The Contractor shall provide the Contracting Officer with the following reports and information with respect to pay and benefits provided under this Contract:

(1) An Annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved amounts and planned distribution of funds for the following year.

(2) A list of the top five most highly compensated executives as defined in FAR 31.205-6(p)(4)(ii) and their total cash compensation at the time of NTP and at the time of any subsequent change to their total cash compensation. This should be the same information provided to the System for Award Management (SAM) per FAR 52.204-10.

(3) An Annual Report of Compensation and Benefits. Report no later than March 1 of each year in iBenefits or its successor.

(D) Pay and Benefit Programs

The Contractor shall establish pay and benefit programs for Incumbent Employees and Non-Incumbent Employees as defined in paragraphs (1) and (2) below; provided, however, that employees scheduled to work fewer than 20 hours per week receive only those benefits required by law. Employees are eligible for benefits, subject to the terms, conditions, and limitations of each benefit program.

(1) Incumbent Employees are as defined in H.3.

(a) Pay. The Contractor shall provide equivalent base pay to Incumbent Employees as compared to base pay provided by the Incumbent Contractors, and in accordance with the terms and conditions of this Contract including any applicable collective bargaining agreement(s) and applicable law, including Section 4(c) of the Service Contract Labor Standards statute, for at least the first year of the term of the Contract.

(b) Pension and Other Benefits. The Contractor shall provide a total package of benefits to Incumbent Employees comparable to that provided by the Incumbent Contractors. Comparability of the total package of benefits shall be determined by the CO in his/her sole discretion.

(2) Non-Incumbent Employees are as defined in H.3. All Non-Incumbent Employees shall receive a total pay and benefits package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees and in accordance with Contract requirements. Notwithstanding the above, benefits for Grandfathered Employees shall be provided in accordance with Clause H.6.

(3) Cash Compensation

(a) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract:

(i) Any proposed major compensation program design changes prior to implementation.

(ii) Variable pay programs/incentives. If not already authorized under Appendix A of the contract, a justification shall be provided with proposed costs and impacts to budget, if any.

(iii) In the absence of Departmental policy to the contrary (e.g., Secretarial pay freeze) a Contractor that meets the criteria, as set forth below, is not required to submit a Compensation Increase Plan (CIP) request to the Contracting Officer for an advance determination of cost allowability for a Merit Increase fund or Promotion/Adjustment fund:

- The Merit Increase fund does not exceed the mean percent increase included in the annual Departmental guidance providing the WorldatWork Salary Budget Survey's salary increase projected for the CIP year. The Promotion/Adjustment fund does not exceed (.8 percent in total.
- The budget used for both Merit Increase funds and Promotion/Adjustment funds shall be based on the payroll for the end of the previous CIP year.
- Salary structure adjustments do not exceed the mean WorldatWork structure adjustments projected for the CIP year and communicated through the annual Department CIP guidance.
- Please note: No later than the first day of the CIP cycle, Contractors must provide notification to the Contracting Officer of planned increases and position to market data by mutually agreed-upon employment categories. No presumption of allowability will exist for employee job classes that exceed market position.

(iv) If a Contractor does not meet the criteria included in (iii) above, a CIP must be submitted to the Contracting Officer for an advance determination of cost allowability. The CIP should include the following components and data:

(1) Comparison of average pay to market average pay.
(2) Information regarding surveys used for comparison.
(3) Aging factors used for escalating survey data and supporting information.
(4) Projection of escalation in the market and supporting information.
(5) Information to support proposed structure adjustments, if any.
(6) Analysis to support special adjustments.

(7) Funding requests for each pay structure to include breakouts of merit, promotions, variable pay, special adjustments, and structure movement. (a) The proposed plan totals shall be expressed as a percentage of the payroll for the end of the previous CIP year. (b) All pay actions granted under the compensation increase plan are fully charged when they occur regardless of time of year in which the action transpires and whether the employee terminates before year end. (c) Specific payroll groups (e.g., exempt, nonexempt) for which CIP amounts are intended shall be defined by mutual agreement between the contractor and the Contracting Officer. (d) The Contracting Officer may adjust the CIP amount after approval based on major changes in factors that significantly affect the plan amount (for example, in the event of a major reduction in force or significant ramp-up).

(8) A discussion of the impact of budget and business constraints on the CIP amount.

(9) Comparison of pay to relevant factors other than market average pay.

(v) After receiving DOE CIP approval or if criteria in (D)(A)(3)(iii) are met, contractors may make minor shifts of up to 10 percent of approved CIP funds by employment category (e.g., Scientist/Engineer, Admin, Exempt, Non-Exempt) without obtaining DOE approval.

(vi) Individual compensation actions for the top contractor official (e.g., laboratory director/plant manager or equivalent) and key personnel not included in the CIP. For those key personnel included in the CIP, DOE will approve salaries upon the initial Contract award and when key personnel are replaced during the life of the Contract. DOE will have access to all individual salary reimbursements. This access is provided for transparency; DOE will not approve individual salary actions (except as previously indicated).

(b) The Contracting Officer's approval of individual compensation actions will be required only for the top contractor official (e.g., laboratory director/plant manager or equivalent) and key personnel as indicated in (D) (3) (A) (vi) above. The base salary reimbursement level for the top contractor official establishes the maximum allowable base salary reimbursement under the Contract. Unusual circumstances may require a deviation for an individual on a case-by-case basis. Any such deviations must be approved by the Contracting Officer.

(c) Severance Pay is not payable to an employee under this Contract if the employee:

(i) Voluntarily separates, resigns or retires from employment,
(ii) Is offered employment with a successor/replacement contractor,
(iii) Is offered employment with a parent or affiliated company, or

(iv) Is discharged for cause.

(d) Service Credit for purposes of determining severance pay does not include any period of prior service for which severance pay has been previously paid through a DOE cost-reimbursement contract or Task Order.

(E) Pension and Other Benefit Programs

(1) No presumption of allowability will exist when the Contractor implements a new benefit plan or makes changes to existing benefits plans that increases costs or are contrary to Departmental policy or written instruction or until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changed benefit plans. Changes shall be in accordance with and pursuant to the terms and conditions of the contract. Advance notification, rather than approval, is required for changes that do not increase costs and are not contrary to Departmental policy or written instruction. To the extent that the Contractor has not submitted a new benefit plan or changes to existing benefit plans for approval on the basis that it does not increase costs and such new plan or change to existing plan does in fact increase costs, any increase in costs may be considered unreasonable and will likely be determined unallowable.

(2) Cost reimbursement for Employee pension and other benefit programs sponsored by the Contractor will be based on the Contracting Officer's approval of Contractor actions pursuant to an approved "Employee Benefits Value Study" and an "Employee Benefits Cost Survey Comparison" as described below.

(3) Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs (a) and (b) below. The studies shall be used by the Contractor in calculating the cost of benefits under existing benefit plans. An Employee Benefits Value (Ben-Val) Study Method using no less than 15 comparator organizations and an Employee Benefits Cost Survey comparison Method shall be used in this evaluation to establish an appropriate comparison method. In addition, the Contractor shall submit updated studies to the Contracting Officer for approval prior to the adoption of any change to a pension or other benefit plan which increases costs.

(a) The Ben-Val, every two years for each benefit tier (e.g., group of employees receiving a benefit package based on date of hire), which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to Employees measured against the RV of benefit programs offered by the Contracting Officer approved comparator companies. To the extent that the value studies do not address post-retirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the post-retirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources and,

(b) An Employee Benefits Cost Study Comparison, annually for each benefit tier that analyzes the Contractor's employee benefits cost for Employees on a per capita basis per full time equivalent employee and as a percent of payroll and compares it with the cost reported by the U.S. Department of Labor's Bureau of Labor Statistics or other Contracting Officer approved broad based national survey.

(4) When the net benefit value exceeds the comparator group by more than five percent, the Contractor shall submit a corrective action plan to the Contracting Officer for approval, unless waived in writing by the Contracting Officer.

(5) When the average total benefit per capita cost or total benefit cost as a percent of payroll exceeds the comparator group by more than five percent, the Contractor shall submit an analysis of the specific plan costs that are above the per capita cost range or total benefit cost as a percent of payroll and a corrective action plan to achieve conformance with a Contracting Officer directed per capita cost range or total benefit cost as a percent of payroll, unless waived in writing by the Contracting Officer.

(6) Within two years of Contracting Officer approval of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and per capita cost range or percent of payroll as approved by the Contracting Officer.

(7) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.

(8) Cost reimbursement for post-retirement benefits other than pensions (PRBs) is contingent on DOE approved service eligibility requirements for PRB that shall be based on a minimum period of continuous employment service not less than 5 years under a DOE cost reimbursement contract(s) immediately prior to retirement. Unless required by Federal or State law, advance funding of PRBs is not allowable.

(9) Each contractor sponsoring a defined benefit pension plan and/or postretirement benefit plan will participate in the annual plan management process which includes written responses to a questionnaire regarding plan management, providing forecasted estimates of future reimbursements in connection with the plan and participating in a conference call to discuss the contractor submission (see (G)(7) below for Pension Management Plan requirements).

(10) Each contractor will respond to quarterly data calls issued through iBenefits, or its successor system.

(F) <u>Establishment and Maintenance of Pension Plans for which DOE Reimburses Costs</u>

(1) Employees working for the Contractor shall only accrue credit for service under this Contract after the date of Contract award.

(2) Any pension plan maintained by the Contractor for which DOE reimburses costs shall be maintained as a separate pension plan distinct from any other pension plan that provides credit for service not performed under a DOE cost-reimbursement contract.

(G) Basic Requirements

The Contractor shall adhere to the requirements set forth below in the establishment and administration of pension plans that are reimbursed by DOE pursuant to cost reimbursement contracts for management and operation of DOE facilities and pursuant to other cost reimbursement facilities contracts. Pension Plans include Defined Benefit and Defined Contribution plans.

(1) The Contractor shall become a sponsor of the existing ETTP MEPP and other benefit plans (or comparable successor plans), including other post-retirement benefits (PRB) plans, as applicable, if and when it hires employees who are eligible to participate in the ETTP MEPP, and retired plan participants, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of the plans.

(2) The Contractor shall become the sponsor of any other existing defined benefit and defined contribution pension plans and other benefit plans (or comparable successor plans), including other post-retirement benefit (PRB) plans, as applicable, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of those plans consistent with the requirements of ERISA and the Internal Revenue Code (IRC). The Contractor shall carry over the length of service credit and leave balances accrued as of the date of the Contractor's assumption of Contract performance.

(3) Each Contractor defined benefit and defined contribution pension plan shall be subjected to a limited-scope audit annually that satisfies the requirements of ERISA section 103, except that every third year the Contractor must conduct a full-scope audit of defined benefit plan(s) satisfying ERISA section 103. Alternatively, the Contractor may conduct a full-scope audit satisfying ERISA section 103 annually. In all cases, the Contractor must submit the audit results to the Contracting officer. In years in which a limited scope audit is conducted, the Contractor must provide the Contracting Officer with a copy of the qualified trustee or custodian's certification regarding the investment information that provides the basis for the plan sponsor to satisfy reporting requirements under ERISA section 104.

DRAFT

While there is no requirement to submit a full scope audit for defined contribution plans, contractors are responsible for maintaining adequate controls for ensuring that defined contribution plan assets are correctly recorded and allocated to plan participants.

(4) For existing Commingled Plans, the Contractor shall maintain and provide annual Separate Accounting of DOE liabilities and assets for a Separate Plan.

(5) For existing Commingled Plans, the Contractor shall be liable for any shortfall in the plan assets caused by funding or events unrelated to DOE contracts.

(6) The Contractor shall comply with the requirements of ERISA if applicable to the pension plan and any other applicable laws.

(7) The Pension Management Plan (PMP) shall include a discussion of the Contractor's plans for management and administration of all pension plans consistent with the terms of this Contract. The PMP shall be submitted in the iBenefits system, or its successor system no later than January 31 of each applicable year. A full description of the necessary reporting will be provided in the annual management plan data request. Within sixty (60) days after the date of the submission, appropriate Contractor representatives shall participate in a conference call to discuss the Contractor's PMP submission and any other current plan issues.

(H) Reimbursement of Contractors for Contributions to Defined Benefit Pension Plans

(1) Contractors that sponsor single employer or multiple employer defined benefit pension plans will be reimbursed for the annual required minimum contributions under the Employee Retirement Income Security Act (ERISA), as amended by the Pension Protection Act (PPA) of 2006 and any other subsequent amendments. Reimbursement above the annual minimum required contribution will require prior approval of the Contracting Officer. Minimum required contribution amounts will take into consideration all pre-funding balances and funding standard carryover balances. Early in the fiscal year but no later than the end of November, the Contractor requesting above the minimum may submit/update a business case for funding above the minimum if preliminary approval is needed prior to the Pension Management Plan process. The business case shall include a projection of the annual minimum required contribution and the proposed contribution above the minimum. The submission of the business case will provide the opportunity for the Department to provide preliminary approval, within 30 days after contractor submission, pending receipt of final estimates, generally after January 1st of the calendar year. Final approval of funding will be communicated by the Head of Contracting Activity (HCA) when discount rates are finalized and it is known whether there are any budget issues with the proposed contribution amount.

(I) Reporting Requirements for Designated Contracts

The following reports shall be submitted to DOE as soon as possible after the last day of the plan year by the contractor responsible for each designated pension plan funded by DOE but no later than the dates specified below:

(1) Actuarial Valuation Reports. The annual actuarial valuation report for each DOE-reimbursed pension plan and when a pension plan is commingled, the contractor shall submit separate reports for DOE's portion and the plan total by the due date for filing IRS Form 5500.

(2) Forms 5500. Copies of IRS Forms 5500 with Schedules for each DOE-funded pension plan, no later than that submitted to the IRS.

(3) Forms 5300. Copies of all forms in the 5300 series submitted to the IRS that document the establishment, amendment, termination, spin-off, or merger of a plan submitted to the IRS.

(J) Changes to Pension Plans

At least sixty (60) days prior to the adoption of any changes to a pension plan, the Contractor shall submit the information required below, to the Contracting Officer. The Contracting Officer must approve plan changes that increase costs as part of a determination as to whether the costs are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6.

(1) For proposed changes to pension plans and pension plan funding, the Contractor shall provide the following to the Contracting Officer:

(a) a copy of the current plan document (as conformed to show all prior plan amendments), with the proposed new amendment indicated in redline/strikeout;

(b) an analysis of the impact of any proposed changes on actuarial accrued liabilities and costs;

(c) except in circumstances where the Contracting Officer indicates that it is unnecessary, a legal explanation of the proposed changes from the counsel used by the plan for purposes of compliance with all legal requirements applicable to private sector defined benefit pension plans;

(d) the Summary Plan Description; and,

(e) any such additional information as requested by the Contracting Officer.

DRAFT

(2) Contractors shall submit new benefit plans and changes to plan design or funding methodology with justification to the Contracting Officer for approval, as applicable (see (E)(1) above). The justification must:

(a) demonstrate the effect of the plan changes on the contract net benefit value or per capita benefit costs,

(b) provide the dollar estimate of savings or costs, and

(c) provide the basis of determining the estimated savings or cost.

(K) Terminating Operations

When operations at a designated DOE facility are terminated and no further work is to occur under the prime contract, the following apply:

(1) No further benefits for service shall accrue.

(2) The Contractor shall provide a determination statement in its settlement proposal, defining and identifying all liabilities and assets attributable to the DOE contract.

(3) The Contractor shall base its pension liabilities attributable to DOE contract work on the market value of annuities or lump sum payments or dispose of such liabilities through a competitive purchase of annuities or lump sum payouts.

(4) Assets shall be determined using the "accrual-basis market value" on the date of termination of operations.

(5) DOE and the Contractor(s) shall establish an effective date for spinoff or plan termination. On the same day as the contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets.

(L) Terminating Plans

(1) DOE contractors shall not terminate any pension plan (Commingled or site specific) without requesting Departmental approval at least 60 days prior to the scheduled date of plan termination.

(2) To the extent possible, the contractor shall satisfy plan liabilities to plan participants by the purchase of annuities through competitive bidding on the open annuity market or lump sum payouts. The contractor shall apply the assumptions and procedures of the Pension Benefit Guaranty Corporation.

DRAFT

(3) Funds to be paid or transferred to any party as a result of settlements relating to pension plan termination or reassignment shall accrue interest from the effective date of termination or reassignment until the date of payment or transfer.

(4) If ERISA or IRC rules prevent a full transfer of excess DOE reimbursed assets from the terminated plan, the contractor shall pay any deficiency directly to DOE according to a schedule of payments to be negotiated by the parties.

(5) On or before the same day as the contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets.

(6) DOE liability to a Commingled pension plan shall not exceed that portion which corresponds to DOE contract service. The DOE shall have no other liability to the plan, to the plan sponsor, or to the plan participants.

(7) After all liabilities of the plan are satisfied, the contractor shall return to DOE an amount equaling the asset reversion from the plan termination and any earnings which accrue on that amount because of a delay in the payment to DOE. Such amount and such earnings shall be subject to DOE audit. To affect the purposes of this paragraph, DOE and the contractor may stipulate to a schedule of payments.

(M) Special Programs

Contractors must advise DOE and receive prior approval for each early-out program, window benefit, disability program, plan-loan feature, employee contribution refund, asset reversion, or incidental benefit.

(N) Definitions

(1) Commingled Plans. Cover employees from the contractor's private operations and its DOE contract work.

(2) Current Liability. The sum of all plan liabilities to employees and their beneficiaries. Current liability includes only benefits accrued to the date of valuation. This liability is commonly expressed as a present value.

(3) Defined Benefit Pension Plan. Provides a specific benefit at retirement that is determined pursuant to the formula in the pension plan document.

(4) Defined Contribution Pension Plan. Provides benefits to each participant based on the amount held in the participant’s account. Funds in the account may be comprised of employer contributions, employee contributions, investment returns on behalf of that plan participant and/or other amounts credited to the participant’s account.

(5) Designated Contract. For purposes of this clause, a contract (other than a prime cost reimbursement contract for management and operation of a DOE facility) for which the Head of the Departmental Contracting Activity determines that advance pension understandings are necessary or where there is a continuing Departmental obligation to the pension plan.

(6) Pension Fund. The portfolio of investments and cash provided by employer and employee contributions and investment returns. A pension fund exists to defray pension plan benefit outlays and (at the option of the plan sponsor) the administrative expenses of the plan.

(7) Separate Accounting. Account records established and maintained within a commingled plan for assets and liabilities attributable to DOE contract service. NOTE: The assets so represented are not for the exclusive benefit of any one group of plan participants.

(8) Separate Plan. Must satisfy IRC Sec. 414(l) definition of a single plan, designate assets for the exclusive benefit of employees under DOE contract,exist under a separate plan document (having its own Department of Labor plan number) that is distinct from corporate plan documents and identify the contractor as the plan sponsor.

(9) Spun-off Plan. A new plan which satisfies IRC Reg. 1.414 (l)-1 requirements for a single plan and which is created by separating assets and liabilities from a larger original plan. The funding level of each individual participant's benefits shall be no less than before the event, when calculated on a "plan termination basis."

H.6 SPECIAL PROVISIONS APPLICABLE TO WORKFORCE TRANSITION AND EMPLOYEE COMPENSATION: PAY AND BENEFITS

(A) Benefit Plans. The Contractor shall provide pension and other benefit plans, to Grandfathered Employees and all other employees hired by the Contractor and service credit for leave as set forth below:

(1) Grandfathered Employees shall be provided pension and other benefits consistent with applicable law, any applicable collective bargaining agreement(s), and the provisions of the ETTP MEPP, and the ETTP MEWA. To the extent that the tax-qualified status of those plans is not jeopardized (see (D)(1) below), no employee who qualifies as a Grandfathered Employee under the ETTP MEPP shall lose the right to participate in the ETTP MEPP as a result of this transition. However, if the participation of a particular classification of employees (e.g., highly compensated employees) could jeopardize the tax qualifications of the ETTP MEPP), the contractor shall take appropriate action as necessary to ensure the ETTP MEPP remains qualified under the IRC, consistent with the processes and procedures set forth herein. Consistent with the terms of the plan(s), any transition

of the employees from WEMS to the Contractor shall not constitute a break in service under the ETTP MEPP and ETTP MEWA.

(2) Non-Grandfathered Employees. Non-Grandfathered Employees shall receive a benefits package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees and in accordance with this Contract, any applicable collective bargaining agreement(s), and applicable law, including Section 4(c) of the Service Contract Labor Standards statute.

(3) Notwithstanding any other clause in this Contract, the Contractor shall ensure that it becomes the sponsor of the ETTP MEPP and ETTP MEWA plans, or any other existing pension and benefit plans, as applicable, for Incumbent Employees no later than the date that the Contractor becomes the employer for employees eligible for participating, so that there is uninterrupted and continuous participation by eligible employees in the foregoing plan(s).

(B) Service Credit For Leave. For Incumbent Employees hired by the Contractor as defined in Clause H.3, the Contractor shall carry over the length of service credit from the previous employer for purposes of determining rates of accruing leave for these employees as required by and consistent with any applicable collective bargaining agreement(s) and applicable law.

(C) Service Credit for Fringe Benefits Other Than Leave. Service credit for all individuals hired by the Contractor shall be applied consistent with any applicable collective bargaining agreement(s), applicable law, and the terms of the applicable benefit plan(s). Service credit for purposes of severance pay is subject to Clause H.5.

(D) Administrative Agreements with Lead Sponsor. The lead sponsor (UCOR) or a lead sponsor successor of the ETTP MEPP, ETTP MEWA and other benefit plans in which UCOR or a successor lead sponsor are participating employers/sponsors, shall have responsibility for management and administration of these plans, consistent with plan documents and any other administrative documents. UCOR or a successor lead sponsor shall provide management and administrative services for the Contractor for the ETTP MEPP, ETTP MEWA, and other benefit plans in which the Contractor and UCOR or a successor lead sponsor are participating employers/sponsors (ETTP Plans). The Contractor shall enter into administrative agreements with the lead sponsor, UCOR, or a successor lead sponsor, for the management and administration of these plans when the Contractor has Grandfathered Employees participating in the ETTP Plan(s). The agreements and costs contained therein shall be subject to the approval of the Contracting Officer.

(E) Annual Actuarial Evaluations. Notwithstanding the above, the Contractor has responsibility for administering and maintaining the qualified status of all pension and other benefit plans that it sponsors under this Contract consistent with the plan

documents. The Contractor shall submit to the Contracting Officer annually actuarial evaluations for all applicable benefit plans as well as certify that the benefit plans are in full compliance with IRC and ERISA requirements. Such certification shall demonstrate that the benefit plans are qualified under the IRC. This evaluation shall include but not be limited to written reports relating to how the benefit plans pass IRC discrimination, participation and coverage testing requirements. Each detailed annual written actuarial evaluation shall identify any conditions that may adversely affect the qualification status of the plans within eighteen months or less of the date of the evaluation, including but not limited to discrimination, participation and coverage testing requirements for the contractor and any of its subcontractors that are participating employers in the plans.

(1) Meeting Test Requirements.
The Contractor shall closely monitor each of its individual subcontractor employer segments participating in the ETTP MEPP and other existing multiple or multi-employer pension plans. With the approval of the Contracting Officer, the Contractor shall establish threshold factors that based upon the experience of the ETTP MEPP and these other existing pension plans regarding the testing requirements indicate when the Contractor and/or its individual subcontractor employer segments may not meet testing requirements within the next two plan years. Every six months the Contractor shall identify any employer plan segments for the Contractor and its individual subcontractor employee segments that may not meet testing requirements for the current plan year and the following plan year.

(2) Failure to Meet Test Requirements. In the case of employer segments for which the approved threshold factors described above and other factors as approved or requested by the Contracting Officer indicate that the employer segments may not meet testing requirements, the Contractor, in conjunction with the lead sponsor, shall provide the Contracting Officer with a corrective action plan for addressing the potential or actual failure to meet testing requirements and quarterly updates on the segment's status for testing purposes. After the corrective action plan has been submitted and approved by the Contracting Officer, the Contractor shall provide quarterly updates on the segment's status for testing purposes.

(F) Withdrawal from the ETTP MEPP. In addition to the requirement in Clause H.5(L)(1), the Contractor shall not withdraw from the ETTP MEPP or the ETTP MEWA without the consent of the Contracting Officer. If the Contractor withdraws without the prior, written approval of the Contracting Officer, all costs (including withdrawal liability under ERISA) associated with such withdrawal may be determined to be unallowable and the Government retains the right to assert a claim against the Contractor for any costs of the Department associated with such withdrawal.

DRAFT

(G) Changes to the ETTP MEPP and any other existing DB pension plan. In addition to any other provisions of this Contract, including but not limited to Clauses H.5(J), any changes or amendments to the ETTP MEPP must be approved in writing in advance by the CO and shall be in accordance with applicable law, including compliance with any applicable collective bargaining agreement(s).

(H) Change in Name. The name(s) of the ETTP MEPP, the ETTP MEWA, and other benefit plans may change as a result of the change in lead sponsorship of these plans. Any references to the ETTP MEPP, the ETTP MEWA, and other benefit plans contained in this Contract apply to these plans as renamed.

H.7 WORKFORCE TRANSITION AND BENEFITS TRANSITION: PLANS AND TIMEFRAMES

(A) Workforce Transition Plan. The Contractor shall submit a Workforce Transition Plan (WF Transition Plan) for Contracting Officer approval, describing in detail the Contractor's plans and procedures as to how the Contractor will comply with the hiring preferences set forth in Clause H. 4, Workforce Transition and Employee Hiring Preferences Including through Period of Performance, and Section I. DEAR 952.226-74, Displaced Employee Hiring Preference. The WF Transition Plan shall also detail the Contractor's plan for incorporating, if applicable, multiple unions with separate bargaining agreements. Notwithstanding timeframes identified elsewhere in the Contract, the Contractor shall perform the following activities in the specified timeframes:

(1) Within ten calendar days after transition period start date, the Contractor shall:

(a) Provide the Contracting Officer with a list of Contractor personnel who will be responsible for transitioning the employees of the Incumbent Contractor and for development of the transition agreements, including specifically the personnel responsible for ensuring that the Contractor complies with the National Labor Relations Act and Clause H.9 Labor Relations, and contact information for the above personnel;

(b) Submit to the Contracting Officer a description of any and all transition agreements that it intends to enter into with FFS to ensure compliance with Clause H.4, Workforce Transition and Employee Hiring Preferences during the Contract Transition Period;

(c) Establish and submit to the Contracting Officer a draft communication plan detailing the communication the Contractor and its subcontractors will engage in with FFS and their employees or former employees, and any labor organizations representing those employees, regarding implementation of the requirements set forth in Clauses H.4, Workforce Transition and Employee Hiring Preferences, and H.5, Employee Compensation: Pay and Benefits; and;

(d) Obtain information from FFS, identifying the employees who have initially been identified as being at risk of being involuntarily separated. Provide and define a process as part of transition agreements required in paragraph (1) (a) above for obtaining updated and continuous information through the Transition Period regarding the identification of employees by FFS that have been identified as being at risk of being involuntarily separated.

(2) Within 15 calendar days after transition period start date, the Contractor shall:

(a) Submit to the Contracting Officer copies of the draft WF Transition Plan for the Contractor and its first and second tier subcontractors, including processes and procedures regarding how the Contractor will implement and ensure compliance with the hiring preferences set forth in Clause H.4, Workforce Transition and Employee Hiring Preferences and Clause H.9, Labor Relations, as applicable.

(b) Establish and provide a copy to the Contracting Officer of its final written communication plan with:

(i) FFS regarding the implementation of the hiring preferences in Clause H.4, Workforce Transition and Employee Hiring Preferences; and

(ii) DOE, site tenants, and, if applicable, labor organizations representing Incumbent Employees.

(3) Within 30 calendar days after NTP, the Contractor shall provide to the Contracting Officer a copy of the final WF Transition described in paragraph (A) above.

(4) Within 60 calendar days after NTP, the Contractor shall provide to the Contracting Officer Copies of the final transition agreements described in paragraph (A)(1)(b) above.

(5) The Contractor shall submit reports to the Contracting Officer regarding the Contractor's and its subcontractors' implementation of the hiring preferences required by Clause H.4, Workforce Transition and Employee Hiring Preferences, including paragraph (A) regarding the right of first refusal in accordance with the timeframes set forth below. These reports shall include the following information: employee, hire date or anticipated hire dates; and, where applicable, the Incumbent contractor or subcontractor that employed the employee and the Contractor or subcontractor that hired the employee.

(a) During the 120 day Contract Transition Period, such reports shall be provided to the Contracting Officer on a weekly basis; or

(b) On a less frequent basis, if requested by the Contracting Officer.

(6) The Contractor shall implement the transition activities as set forth in the approved transition plan and such other transition activities as may be authorized or directed by the Contracting Officer.

(B) Benefits Transition Plan. The Contractor shall submit a draft Benefits Transition Plan for the approval of the Contracting Officer, as set forth herein.

(1) A detailed description of the Contractor's plans and procedures showing how the Contractor will comply with Clauses H.5 and H.6, and this Paragraph (B).

(2) A detailed description of the Contractor's policies regarding pensions and other benefits for which the Department reimburses costs under this Contract, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.

(3) A written description of how pension and other benefit plans provided to employees pursuant to Clauses H.5 and H.6, will be developed and implemented on or before the last day of the 120 day Transition Period.

(4) A written description of how the existing pension and other benefits plans provided to employees pursuant to Clause H.6, will be amended or restated on or before the last day of the 120 days Transition Period.

(5) The Contractor shall perform the following activities involving benefit transition within the timeframes specified below.

(a) Within ten calendar days after NTP, the Contractor shall:

(1) Provide the Contracting Officer with a list of Contractor personnel who will be responsible for transitioning into the ETTP MEPP, the ETTP MEWA, or other existing benefit plans and/or development of new benefits plans, including specifically the personnel responsible for ensuring that the Contractor becomes a sponsor/ participating employer of the ETTP MEPP and/or ETTP MEWA and/or other existing benefit plans and contact information for the above personnel;

(2) Request FFS, LSRS, and UCOR to provide information and documents necessary for the Contractor to adhere to the requirements set forth in this Contract pertaining to sponsorship of the ETTP MEPP, the ETTP MEWA and other existing benefits plans or establishment of any new benefits plans, including but not limited to the transition of the existing pension and other benefit plans on or before the end of the 120-day Contract Transition Period.

DRAFT

(3) Provide estimated costs and detailed breakouts of the costs to accomplish workforce and benefits transition activities within the timeframes specified, including the costs for enrolled actuaries and counsel.

(b) Within 15 days after NTP, the Contractor shall provide to the Contracting Officer:

(1) A list of the information and documents that the Contractor has requested from UCOR, and, FFS pertaining to the transition into the ETTP MEPP, the ETTP MEWA, and other existing benefit plans. The Contractor shall notify the Contracting Officer on a timely basis of any issues or problems that it encounters in obtaining information or documents requested from UCOR, or FFS. Regardless of such notification, the Contractor remains responsible under this Contract for ensuring compliance with the terms of this Contract, including the timeframes set forth in this clause and the requirements in Clause H.4, Workforce Transition and Employee Hiring Preferences, Clause H.5, Employee Compensation: Pay and Benefits, and Clause H.6, Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits

(c) Within 20 days after NTP, the Contractor shall:

(1) Provide its final draft Benefits Transition Plan; and

(2) Submit a detailed description of its plans and processes, including timeframes and specific projected dates for accomplishment of each activity necessary to ensure compliance with the requirements set forth in Clause H.5 and H.6, including requirements pertaining to the establishment of employee benefit plans; and

(3) Meet via televideo, teleconference, and/or in person with relevant personnel who administer the benefit plans for UCOR, and FFS, if and when necessary. The meeting shall include the Contractor's benefit plan administrators and personnel, head of human resources, ERISA counsel, actuaries, and any and all other personnel deemed necessary by the Contractor. During such meeting, the Contractor shall discuss all matters necessary to ensure the Contractor adheres to its obligations under Clause H.5 and H.6, including execution of transition agreements with UCOR, and FFS as applicable.

(d) Within 30 days after NTP, the Contractor shall provide a final written Benefits Transition Plan to the Contracting Officer.

(e) Within 45 days after NTP, the Contractor shall:

(1) Provide to the Contracting Officer draft or proposed final versions of the following documents as set forth below –

(i) drafts of all amendments to or restatements of the pension and other benefit plans presently sponsored by UCOR, or any other existing benefit plans it plans to participate in, including but not limited to, amendments effectuating the change in sponsorship/participating employer in the ETTP MEPP and any other existing DB pension plan. If applicable, the Contractor shall also submit all draft restated benefit plans and draft Summary Plan Descriptions (SPDs) for pension and other benefit plans sponsored by UCOR or any other existing defined benefit plans it plans to participate in. Any and all such amendments shall comply with applicable law governing such transactions and changes in sponsorship of the plans.

(ii) drafts of any new benefit plan(s) as well as draft SPDs that the Contractor proposes to sponsor.

(iii) draftsof the transition agreements which the Contractor will enter into with UCOR and FFS to ensure the Contractor's compliance with the pay and benefits requirements set forth in Clauses H.5 and H.6

(f) No later than 60 days after NTP, and prior to the adoption or execution of those documents, the Contractor shall submit to the Contracting Officer for approval the proposed final versions of the documents provided in paragraph (e) above.

(g) The Contractor shall respond to any comments provided by the Contracting Officer under any of the above paragraphs within two days of receipt of the comments.

(h) After the Contract Transition Period and throughout the remaining period of performance of the Contract, the Contractor shall provide the following information promptly to the Contracting Officer upon the request of the Contracting Officer:

(1) Documents relating to benefit plans offered to Contractor Employees, including but not limited to SPDs, all Plan documents, applicable amendments, employee handbooks that summarize benefits provided to employees, and other documents that describe benefits provided to employees of the Contractor who perform work on this Contract, and

(2) Any and all other documents pertaining to implementation of and compliance with implementation of the compensation and benefit programs identified in Clause H.5

(3) Additionally, the contractor shall provide timely data responses to Departmental annual and ad hoc pension and PRB data requests. Such data responses shall be provided within the timeframe established by the contracting officer for each response and, if no timeframe is specified, the contractor shall provide the data response within one calendar day.

H.8 DOE-H-2004 POST CONTRACT RESPONSIBILITIES FOR PENSION AND OTHER BENEFIT PLANS (Oct 2014)

(A) If this Contract expires and/or terminates and DOE has awarded a contract under which a new contractor becomes a sponsor/participating employer and assumes responsibility for management and administration of the ETTP MEPP, the ETTP MEWA, pension or other benefit plans covering active or retired employees with respect to service at the Paducah Gaseous Diffusion Plant, (collectively, the "Plans"), the Contractor shall cooperate and transfer to the new contractor its responsibility for sponsorship, management and administration of the plans consistent with direction from the Contracting Officer. If a Commingled plan is involved, the Contractor shall:

(1) Spin off the DOE portion of any Commingled Plan used to cover employees working at the DOE facilities into a separate plan. The new plan will normally provide benefits similar to those provided by the commingled plan and shall carry with it the DOE assets on an accrual basis market value, including DOE assets that have accrued in excess of DOE liabilities.

(2) Bargain in good faith with DOE or the successor contractor to determine the assumptions and methods for establishing the liabilities involved in a spinoff. DOE and the contractor(s) shall establish an effective date of spinoff. On or before the same day as the contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets.

(B) If this Contract expires or terminates and DOE has not awarded a contract to a new contractor under which the new contractor becomes a sponsor and assumes responsibility for management and administration of the Plans, or if the Contracting Officer determines that the scope of work under the Contract has been completed (any one such event may be deemed by the Contracting Officer to be "Contract Completion" for purposes of this clause), whichever is earlier, and notwithstanding any other obligations and requirements concerning expiration or termination under any other clause of this Contract, the following actions shall occur regarding the Contractor's obligations regarding the Plans at the time of Contract Completion:

(1) Subject to subparagraph (2) below, and notwithstanding any legal obligations independent of the Contract the Contractor may have regarding responsibilities for sponsorship, management, and administration of the Plans, the Contractor

shall remain the sponsor of the Plans, in accordance with applicable legal requirements.

(2) The parties shall exercise their best efforts to reach agreement on the Contractor's responsibilities for sponsorship, management and administration of the plans for which DOE reimburses costs, prior to or at the time of Contract Completion. However, if the parties have not reached agreement on the Contractor's responsibilities for sponsorship, management and administration of the Plans prior to or at the time of Contract Completion, unless and until such agreement is reached, the Contractor shall comply with written direction from the Contracting Officer regarding the Contractor's responsibilities for continued provision of pension and welfare benefits under the Plans, including but not limited to continued sponsorship of the Plans, in accordance with applicable legal requirements. To the extent that the Contractor incurs costs in implementing direction from the Contracting Officer, the Contractor's costs will be reimbursed pursuant to applicable Contract provisions.

H.9 DOE-H-2028 LABOR RELATIONS (OCT 2014)

(A) The Contractor shall respect the right of employees to organize, form, join, or assist labor organizations; bargain collectively through their chosen labor representatives; engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of these activities.

(B) Consistent with applicable labor laws and regulations, for work currently performed by members of United Steel, Paper, and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers Union, Paducah Local 550 (USW), and the International Union, Security, Police, Fire, Professionals of America (SPFPA) on the effective date of this Contract, the Contractor agrees to initially consult with the unions regarding the initial terms and conditions of employment and to recognize the unions as the collective bargaining representative(s) for employees performing work covered in the scope of this contract, and to bargain in good faith to a collective bargaining agreement that gives due consideration to applicable terms and conditions of the existing collective bargaining agreement(s) for work at the Paducah Gaseous Diffusion Plant.

(C) The Contractor shall submit its economic bargaining parameters for which DOE reimburses costs to, and obtain the approval of, the Contracting Officer regarding allowability of the costs, and compliance with the terms and conditions of the Contract, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process. During the collective bargaining negotiations, the Contractor shall notify, and obtain the approval of, the Contracting Officer before submitting or agreeing to any collective bargaining proposal that increases or may increase allowable costs above those previously approved in the economic bargaining parameters, or that could involve changes in any pension or other benefit plans, and such other items of special interest to DOE as

are identified by the Contracting Officer. The preliminary approval of the Contracting Officer under this paragraph does not waive any other terms and conditions of the Contract.

(D) The Contractor will seek to maintain harmonious bargaining relationships that reflect a judicious expenditure of public funds, equitable resolution of disputes and effective and efficient bargaining relationships consistent with the requirements of FAR Subpart 22.1, DEAR Subpart 970.2201, and all applicable Federal and state labor relations laws.

(E) The Contractor shall use its best efforts to ensure that collective bargaining agreements negotiated under this Contract contain provisions designed to assure no disruption in services during the performance of the Contract. All such agreements entered into the Contract period of performance should, to the extent that the parties voluntarily agree, provide that grievances and disputes involving the interpretation or application of the agreement will be settled without resorting to strike, lockout or other disruption in services. For this purpose, each collective bargaining agreement should provide an effective grievance procedure with arbitration as its final step, unless the parties mutually agree upon some other method of assuring no disruption in services. The Contractor shall include the substance of this subparagraph (E) in any subcontracts.

(F) In addition to FAR 52.222-1, Notice to the Government of Labor Disputes, and other requirements in the contract, the Contractor shall immediately notify the Contracting Officer or designee of all labor relations issues and matters of interest, including, but not limited to, organizing initiatives, unfair labor practice charges or complaints, work stoppages, picketing, labor arbitrations, National Labor Relations Board charges, legal or judicial proceedings, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.

(G) The Contractor shall immediately notify the Contracting Officer or designee of any planned or actual strike or work stoppage involving its employees or employees of a subcontractor.

(H) The Contractor shall provide the Contracting Officer or designee a copy of all arbitration decisions issued by an arbitrator within one week of receipt of the decision.

(I) The Contractor shall provide the Contracting Officer with a “Report of Settlement” after ratification of a collective bargaining agreement by accessing and inputting the information into the Labor Relations module (GCLR) of DOE’s iBenefits reporting system, or its successor system, during the next open quarter. Such information shall include negotiated wages, pension, medical and other benefits costs, and a copy of the collective bargaining agreement and any subsequent modifications.

DRAFT

(J) The Contractor shall provide to the Contracting Officer a semi-annual report on grievances for which further judicial or administrative proceedings are anticipated, and all final step grievances. The Contractor shall immediately provide information on all arbitration requests. The reports are due June 30 and December 31, of each year, and should include the following information:

1. List of all final step grievances filed during the previous six-month period and grievances for which further judicial or administrative proceedings are anticipated, together with the dates filed;
2. A brief description of issues regarding each grievance;
3. If settled, the date of settlement, and terms of the settlement. If a denial is made at the final step and the period for requesting arbitration passes, report the matter as closed;
4. If not settled during the six-month reporting period, carry the item over to the subsequent six-month reporting periods until settlement, request for arbitration, closure, or other proceeding occurs.

H.10 WORKFORCE RESTRUCTURING

(a) The Contractor shall regularly analyze workforce requirements and develop appropriate workforce transition strategies consistent with DOE policy, as set forth in DOE O 350.3 and Secretarial Guidance, as may be revised from time to time, to ensure continued availability of the critical workforce knowledge, skills, and abilities necessary for performance under this Contract.

(b) When the Contractor determines that a change in the workforce is necessary, the Contractor shall accomplish the workforce restructuring in a manner consistent with the DOE General Workforce Restructuring Plan, if applicable, in effect for the facility or site.

(c) The Contractor must prepare and submit to the Contracting Officer a specific workforce restructuring plan (Specific Plan), as described below in paragraph (d), if either of the following conditions are met within a rolling 12-month period:

(1) The Contractor intends to reduce its workforce by 50 or more employees through involuntary separation; or

(2) The Contractor intends to reduce its workforce by 100 or more employees, whether through voluntary or involuntary separation actions, or a combination of such actions.

(d) The Contractor's Specific Plan shall set forth how the Contractor will conduct its workforce restructuring action at the site in a manner that meets DOE policy objectives as set forth in DOE Order 350.3, and be submitted to the Contracting Officer for approval at least 60 days in advance of the first communication planned to be given to the employees and public. The models for Contractor Self-Select Voluntary Separation Plan and Involuntary Separation Plan, as well as the General

Release and Waiver Forms, are available online at: http://www.energy.gov/gc/services/technology-transfer-and-procurement/office-assistant-general-counsel-labor-and-pension. If the Contractor determines it will be necessary to conduct a voluntary separation program likely followed by an involuntary separation, the Contractor may combine the Self-Select Voluntary Separation Plan and the Involuntary Separation Plan into one Specific Plan for submission to the Contracting Officer.

(e) Pay-in-lieu of notice beyond two work-weeks requires written advance Contracting Officer approval. The Contractor shall submit the request to the Contracting Officer as part of the Workforce Restructuring package submitted for approval in (d) above, and include the number of days of pay-in-lieu of notice requested, above two work-weeks, a detailed business justification, and the associated costs.

(f) The Contractor is encouraged to consider the use of employee waivers and releases. DOE has developed a model waiver and release of claims for both Voluntary and Involuntary Separation Plans. The forms are available on line at the website set forth in (d) above. Any deviation from the models must be approved by the Contracting Officer.

(g) (The Contractor must perform an adverse impact analysis (also known as a diversity analysis) when the involuntary separation action(s) will affect 50 or more contractor employees within a rolling 12-month period. The analysis shall be submitted to the DOE or National Nuclear Security Administration (NNSA) site counsel, as applicable, prior to notification of employees selected for involuntary separation, and may be used by DOE in determining cost allowability.

(h) For workforce reductions that do not meet the conditions set forth in paragraph (c) above, the Contractor shall provide such notification as the Contracting Officer directs. The notification shall include affected job classifications, numbers of employees affected, and actions taken to assist the employees to find other employment or otherwise lessen the effect of the involuntary separation.

(i) The Contractor shall ensure it does not hire or rehire individuals who volunteered for termination during a Self-Select Voluntary Separation Plan, at any DOE or NNSA site, during the one-year period following the separation. If an employee is hired or rehired prior to the one-year period, the employee may be required to pay back, to the contractor who provided the severance payment, all or a pro-rata amount of the severance received under the Voluntary Separation Plan.

(j) Contractor(s) must provide actual and projected workforce reductions on an annual basis, no later than March 15th of each year, as set forth in the iBenefits system (https://ibenefits.energy.gov), or its successor.

DRAFT

H.11 LABOR STANDARDS

(a) The Contracting Officer will determine the appropriate labor standards that apply to specific work activities in accordance with the Wage Rate Requirements (Construction) statute (formerly known as the Davis-Bacon Act (DBA)), the Service Contract Labor Standards (SCLS) statute (formerly known as the Service Contract Act of 1965 (SCA)), or other applicable Federal labor standards law. Prior to the start of any proposed work activities, the Contractor shall request a labor standards determination from the Contracting Officer for specific work activities by submitting proposed work packages that describe the specific activities to be performed for particular work and other information as necessary for DOE to make a determination regarding the appropriate labor standard(s) for the work or aspects of the work. Once a determination is made and provided to the Contractor, the Contractor shall comply with the determination and shall ensure that appropriate labor standards clauses and requirements are flowed down to and incorporated into any applicable subcontracts.

(b) The Contractor shall comply, and shall be responsible for compliance by any subcontractor, with the Wage Rate Requirements (Construction), the Service Contract Labor Standards, or other applicable labor standards law. The Contractor shall conduct such payroll and job-site reviews for construction work, including interviews with employees, with such frequency as may be necessary to assure compliance by its subcontractors and as requested or directed by the DOE. When performing work subject to the Wage Rate Requirements (Construction), Contractor shall maintain payroll records for a period of three years from completion of the Contract, for laborers and mechanics performing the work. In accordance with FAR 52.222-41(g) and FAR 52.222-6(b)(4), the Contractor and its subcontractors shall post in a prominent job-site location, the wage determination and, as applicable, Department of Labor Publication: WH-1231, *Notice to Employees Working on Federal or Federally Assisted Construction Projects* and/or WH-1313, *Notice to Employees Working on Government Contracts*.

(c) For subcontracts determined to be subject to the Service Contract Labor Standards, the Contractor will prepare Standard Form 98 (e98), *Notice of Intention to Make a Service Contract and Response Notice*. This form is available on the Department of Labor website at: http://www.dol.gov/whd/govcontracts/sca/sf98/index.asp. The form shall be submitted to the Contracting Officer.

(d) In addition to any other requirements in the Contract, Contractor shall as soon as possible notify the Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from contractor or subcontractor employees; significant labor standards violations, as defined in 29 CFR 5.7; disputes concerning labor standards pursuant to 29 CFR parts 4,6, and 8 and as defined in FAR 52.222-41(t); disputed labor standards determinations; Department of Labor investigations; or legal or judicial proceedings related to the labor standards under this Contract or a subcontract. The Contractor

shall furnish such additional information as may be required from time to time by the Contracting Officer.

(e) The Contractor shall prepare and submit, to the Contracting Officer, the DBA Semi-Annual Enforcement Report, Form OMB 1910-5165, by April 21 and October 21 of each year. Form submittal will be administered through the iBenefits system (https://ibenefits.energy.gov) or its successor system.

H.12 DOE-H-2003 WORKER'S COMPENSATION INSURANCE (OCT 2014)

(a) Contractors, other than those whose workers' compensation coverage is provided through a state funded arrangement or a corporate benefits program, shall submit to the Contracting Officer for approval all new compensation policies and all initial proposals for self-insurance (contractors shall provide copies to the Contracting Officer of all renewal policies for workers compensation).

(b) Workers compensation loss income benefit payments, when supplemented by other programs (such as salary continuation, short-term disability) are to be administered so that total benefit payments from all sources shall not exceed 100 percent of the employee's net pay.

(c) Contractors approve all workers compensation settlement claims up to the threshold established by the Contracting Officer for DOE approval and submit all settlement claims above the threshold to DOE for approval.

(d) The Contractor shall obtain approval from the CO before making any significant change to its workers compensation coverage and shall furnish reports as may be required from time to time by the CO.

H.13 DOE-H-2049 INSURANCE REQUIREMENT (OCT 2014)

(A) In accordance with the clause DEAR 952.231-71, Insurance-Litigation and Claims, the following types and minimum amounts of insurance shall be maintained by the Contractor:

(1) Workers' compensation – Amount in accordance with applicable Federal and State workers' compensation and occupational disease statutes.
(2) Employer's liability - $100,000 (except in States with exclusive or monopolistic funds that do not permit worker's compensation to be written by private carriers).
(3) Comprehensive bodily injury liability - $500,000.
(4) Property damage liability – None, unless otherwise required by the Contracting Officer.
(5) Comprehensive automobile bodily injury liability - $200,000 per person and $500,000 per occurrence.
(6) Comprehensive automobile property damage - $20,000 per occurrence.

(B) The Contractor shall provide evidence of such insurance, if requested by the Contracting Officer; and the Contracting Officer may require such evidence to be provided prior to the commencement of work under the contract.

H.14 DOE-H-2057 DEPARTMENT OF LABOR WAGE DETERMINATIONS (OCT 2014)(DEVIATION)

The Contractor's performance under this contract shall comply with the requirements of U.S. Department of Labor Wage Determination(s) located in Section J, Attachment J-10.

H.15 DOE-H-2073 RISK MANAGEMENT AND INSURANCE PROGRAMS (DEC 2014)

Contractor officials shall ensure that the requirements set forth below are applied in the establishment and administration of DOE-funded prime cost reimbursement contracts for management and operation of DOE facilities and other designated long-lived onsite contracts for which the contractor has established separate operating business units.

(A) BASIC REQUIREMENTS

(1) Maintain commercial insurance or a self-insured program, (i.e., any insurance policy or coverage that protects the contractor from the risk of legal liability for adverse actions associated with its operation, including malpractice, injury, or negligence) as required by the terms of the contract. Types of insurance include automobile, general liability, and other third party liability insurance. Other forms of coverage must be justified as necessary in the operation of the Department facility and/or the performance of the contract, and approved by the DOE.

(2) Contractors shall not purchase insurance to cover public liability for nuclear incidents without DOE authorization (See DEAR 970.5070, Indemnification, and DEAR 950.70, Nuclear Indemnification of DOE Contractors).

(3) Demonstrate that insurance programs and costs comply with the cost limitations and exclusions at FAR 28.307, Insurance Under Cost Reimbursement Contracts, FAR 31.205-19, Insurance and Indemnification, DEAR 952.231-71 Insurance-Litigation and Claims, and DEAR 970.5228-1, Insurance-Litigation and Claims.

(4) Demonstrate that the insurance program is being conducted in the government's best interest and at reasonable cost.

DRAFT

(5) The contractor shall submit copies of all insurance policies or insurance arrangements to the Contracting Officer no later than 30 days after the purchase date.

(6) When purchasing commercial insurance, the contractor shall use a competitive process to ensure costs are reasonable.

(7) Ensure self-insurance programs include the following elements:

(a) Compliance with criteria set forth in FAR 28.308, Self-Insurance. Approval of self-insurance is predicated upon submission of verifiable proof that the self-insurance charge does not exceed the cost of purchased insurance. This includes hybrid plans (i.e., commercially purchased insurance with self-insured retention (SIR) such as large deductible, matching deductible, retrospective rating cash flow plans, and other plans where insurance reserves are under the control of the insured). The SIR components of such plans are self-insurance and are subject to the approval and submission requirements of FAR 28.308, as applicable.

(b) Demonstration of full compliance with applicable state and federal regulations and related professional administration necessary for participation in alternative insurance programs.

(c) Safeguards to ensure third party claims and claims settlements are processed in accordance with approved procedures.

(d) Accounting of self-insurance charges.

(e) Accrual of self-insurance reserve. The Contracting Officer's approval is required and predicated upon the following:

i. The claims reserve shall be held in a special fund or interest bearing account.

ii. Submission of a formal written statement to the Contracting Officer stating that use of the reserve is exclusively for the payment of insurance claims and losses, and that DOE shall receive its equitable share of any excess funds or reserve.

iii. Annual accounting and justification as to the reasonableness of the claims reserve submitted for Contracting Officer's review.

iv. Claim reserves, not payable within the year the loss occurred, are discounted to present value based on the prevailing Treasury rate.

DRAFT

(f) Separately identify and account for interest cost on a Letter of Credit used to guarantee self-insured retention, as an unallowable cost and omitted from charges to the DOE contract.

(g) Comply with the Contracting Officer's written direction for ensuring the continuation of insurance coverage and settlement of incurred and/or open claims and payments of premiums owed or owing to the insurer for prior DOE contractors.

(B) PLAN EXPERIENCE REPORTING.

The Contractor shall:

(1) provide the Contracting Officer with annual experience reports for each type of insurance (e.g., automobile and general liability), listing the following for each category:
   (A) The amount paid for each claim.
   (B) The amount reserved for each claim.
   (C) The direct expenses related to each claim.
   (D) A summary for the year showing total number of claims.
   (E) A total amount for claims paid.
   (F) A total amount reserved for claims.
   (G) The total amount of direct expenses.

(2) provide the Contracting Officer with an annual report of insurance costs and/or self-insurance charges. When applicable, separately identify total policy expenses (e.g., commissions, premiums, and costs for claims servicing) and major claims during the year, including those expected to become major claims (e.g., those claims valued at $100,000 or greater).

(3) provide additional claim financial experience data as may be requested on a case-by-case basis.

(C) TERMINATING OPERATIONS.

The Contractor shall:

(1) ensure protection of the government's interest through proper recording of cancellation credits due to policy terminations and/or experience rating.

DRAFT

(2) identify and provide continuing insurance policy administration and management requirements to a successor, other DOE contractor, or as specified by the Contracting Officer.

(3) reach agreement with DOE on the handling and settlement of self-insurance claims incurred but not reported at the time of contract termination; otherwise, the contractor shall retain this liability.

(D) SUCCESSOR CONTRACTOR OR INSURANCE POLICY CANCELLATION.

The Contractor shall:

(1) obtain the written approval of the Contracting Officer for any change in program direction; and

(2) ensure insurance coverage replacement is maintained as required and/or approved by the Contracting Officer.

II. BUSINESS SYSTEMS CLAUSES

H.16 DOE-H-2022 CONTRACTOR BUSINESS SYSTEMS (OCT 2014)

(A) Definitions. As used in this clause-

Acceptable contractor business systems means contractor business systems that comply with the terms and conditions of the applicable business system clauses listed in the definition of "contractor business systems" in this clause.

Contractor business systems means— -

(1) Accounting system, if this contract includes the Section H clause Accounting System Administration;
(2) Earned value management system, if this contract includes the Section H clause Earned Value Management System;
(3) Estimating system, if this contract includes the Section H clause Cost Estimating System Requirements;
(4) Property management system, if this contract includes the Section H clause Contractor Property Management System Administration; and
(5) Purchasing system, if this contract includes the Section H clause Contractor Purchasing System Administration.

Significant deficiency, in the case of a contractor business system, means a shortcoming in the system that materially affects the ability of officials of the

Department of Energy to rely upon information produced by the system that is needed for management purposes.

(B) General. The Contractor shall establish and maintain acceptable business systems in accordance with the terms and conditions of this contract. If the Contractor plans to adopt any existing business system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system requirements and criteria required in that specific business system clause.

(C) Significant deficiencies.

(1) The Contractor shall respond, in writing, within 30 days to an initial determination that there are one or more significant deficiencies in one or more of the Contractor's business systems.

(2) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the final determination as to whether the Contractor's business system contains significant deficiencies. If the Contracting Officer determines that the Contractor's business system contains significant deficiencies, the final determination will include a notice to withhold payments.

(D) Withholding payments.

(1) If the Contracting Officer issues the final determination with a notice to withhold payments for significant deficiencies in a contractor business system required under this contract, the Contracting Officer will direct the Contractor, in writing, to withhold five percent from its invoices until the Contracting Officer has determined that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination. The Contractor shall, within 45 days of receipt of the notice, either— -

i. Correct the deficiencies; or

ii. Submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies. The plan shall contain— -

(a) Root cause(s) identification of the problem(s);

(b) The proposed corrective action(s) to address the root cause(s);

(c) A schedule for implementation; and

(d) The name of the person responsible for the implementation.

(2) If the Contractor submits an acceptable corrective action plan within 45 days of receipt of a notice of the Contracting Officer's intent to withhold payments, and the Contracting Officer, in consultation with the auditor or functional specialist, determines that the Contractor is effectively implementing such plan, the Contracting Officer will direct the Contractor, in writing, to reduce the percentage

withheld on invoices to two percent until the Contracting Officer determines the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination. However, if at any time, the Contracting Officer determines that the Contractor has failed to follow the accepted corrective action plan, the Contracting Officer will increase withholding and direct the Contractor, in writing, to increase the percentage withheld on invoices to the percentage initially withheld, until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination.

(3) Payment withhold percentage limits.

i. The total percentage of payments withheld on amounts due on this contract shall not exceed— -

(A) Five percent for one or more significant deficiencies in any single contractor business system; and

(B) Ten percent for significant deficiencies in multiple contractor business systems.

ii. If this contract contains pre-existing withholds, and the application of any subsequent payment withholds will cause withholding under this clause to exceed the payment withhold percentage limits in paragraph (d)(3)(i) of this clause, the Contracting Officer will reduce the payment withhold percentage in the final determination to an amount that will not exceed the payment withhold percentage limits.

(4) For the purpose of this clause, payment means invoicing for any of the following payments authorized under this contract:

i. Interim payments under— -

(a) Cost-reimbursement contracts;

(b) Incentive type contracts;

(c) Time-and-materials contracts; or

(d) Labor-hour contracts.

ii. Progress payments to include fixed-price contracts.

iii. Performance-based payments to include fixed-price contracts.

(5) Payment withholding shall not apply to payments on fixed-price line items where performance is complete and the items were accepted by the Government.

(6) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights or remedies the Government has under this contract.

(7) Notwithstanding the provisions of any clause in this contract providing for interim, partial, or other payment withholding on any basis, the Contracting Officer may withhold payment in accordance with the provisions of this clause.

(8) The payment withholding authorized in this clause is not subject to the interest-penalty provisions of the Prompt Payment Act.

(E) Correction of deficiencies.

(1) The Contractor shall notify the Contracting Officer, in writing, when the Contractor has corrected the business system's deficiencies.

(2) Once the Contractor has notified the Contracting Officer that all deficiencies have been corrected, the Contracting Officer will take one of the following actions:

i. If the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination, the Contracting Officer will direct the Contractor, in writing, to discontinue the payment withholding from invoices under this contract associated with the Contracting Officer's final determination, and authorize the Contractor to bill for any monies previously withheld that are not also being withheld due to other significant deficiencies. Any payment withholding under this contract due to other significant deficiencies, will remain in effect until the Contracting Officer determines that those significant deficiencies are corrected.

ii. If the Contracting Officer determines that the Contractor still has significant deficiencies, the Contractor shall continue withholding amounts from its invoices in accordance with paragraph (d) of this clause, and not invoice for any monies previously withheld.

iii. If the Contracting Officer determines, based on the evidence submitted by the Contractor, that there is a reasonable expectation that the corrective actions have been implemented and are expected to correct the significant deficiencies, the Contracting Officer will discontinue withholding payments, and release any payments previously withheld directly related to the significant deficiencies identified in the Contractor notification, and direct the

Contractor, in writing, to discontinue the payment withholding from invoices associated with the Contracting Officer's final determination, and authorize the Contractor to bill for any monies previously withheld.

iv. If, within 90 days of receipt of the Contractor notification that the Contractor has corrected the significant deficiencies, the Contracting Officer has not made a determination in accordance with paragraphs (e)(2)(i), (ii), or (iii) of this clause, the Contracting Officer will direct the Contractor, in writing, to reduce the payment withholding from invoices directly related to the significant deficiencies identified in the Contractor notification by a specified percentage that is at least 50 percent, but not authorize the Contractor to bill for any monies previously withheld until the Contracting Officer makes a determination in accordance with paragraphs (e)(2)(i), (ii), or (iii) of this clause.

v. At any time after the Contracting Officer directs the Contractor to reduce or discontinue the payment withholding from invoices under this contract, if the Contracting Officer determines that the Contractor has failed to correct the significant deficiencies identified in the Contractor's notification, the Contracting Officer will reinstate or increase withholding and direct the Contractor, in writing, to reinstate or increase the percentage withheld on invoices to the percentage initially withheld, until the Contracting Officer determines that the Contractor has corrected all significant deficiencies as directed by the Contracting Officer's final determination.

H.17 DOE-H-2023 COST ESTIMATING SYSTEM REQUIREMENTS (OCT 2014)

(A) Definitions.

-Acceptable estimating system means an estimating system that complies with the system criteria in paragraph (d) of this clause, and provides for a system that— -

(1) Is maintained, reliable, and consistently applied;
(2) Produces verifiable, supportable, documented, and timely cost estimates that are an acceptable basis for negotiation of fair and reasonable prices;
(3) Is consistent with and integrated with the Contractor's related management systems; and
(4) Is subject to applicable financial control systems.

-Estimating system means the Contractor's policies, procedures, and practices for budgeting and planning controls, and generating estimates of costs and other data included in proposals submitted to customers in the expectation of

receiving contract awards or contract modifications. Estimating system includes the Contractor's— -

(1) Organizational structure;
(2) Established lines of authority, duties, and responsibilities;
(3) Internal controls and managerial reviews;
(4) Flow of work, coordination, and communication; and
(5) Budgeting, planning, estimating methods, techniques, accumulation of historical costs, and other analyses used to generate cost estimates.

-Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(B) General. The Contractor shall establish, maintain, and comply with an acceptable estimating system.

(C) Applicability. Paragraphs (d) and (e) of this clause apply if the Contractor is a large business to include a contractor teaming arrangement, as defined at 48 CFR 9.601(1), performing a contract in support of a Capital Asset Project (other than a management and operating contract as described at 917.6), as prescribed in DOE Order (DOE O) 413.3B, or current version; or a non-capital asset project and either—

(1) The total prime contract value exceeds $50 million, including options; or

(2) The Contractor was notified, in writing, by the Contracting Officer that paragraphs (d) and (e) of this clause apply.

(D) System requirements.

(1) The Contractor shall disclose its estimating system to the Contracting Officer, in writing. If the Contractor wishes the Government to protect the information as privileged or confidential, the Contractor must mark the documents with the appropriate legends before submission. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system requirements required in this clause.

(2) An estimating system disclosure is acceptable when the Contractor has provided the Contracting Officer with documentation no later than 60 days after contract award that-

i. Accurately describes those policies, procedures, and practices that the Contractor currently uses in preparing cost proposals; and

ii. Provides sufficient detail for the Government to reasonably make an informed judgment regarding the acceptability of the Contractor's estimating practices.

(3) The Contractor shall—

i. Comply with its disclosed estimating system; and

ii. Disclose significant changes to the cost estimating system to the Contracting Officer on a timely basis.

a. The Contractor's estimating system shall provide for the use of appropriate source data, utilize sound estimating techniques and good judgment, maintain a consistent approach, and adhere to established policies and procedures. An acceptable estimating system shall accomplish the following functions:

(i) Establish clear responsibility for preparation, review, and approval of cost estimates and budgets.

(ii) Provide a written description of the organization and duties of the personnel responsible for preparing, reviewing, and approving cost estimates and budgets.

(iii) Ensure that relevant personnel have sufficient training, experience, and guidance to perform estimating and budgeting tasks in accordance with the Contractor's established procedures.

(iv) Identify and document the sources of data and the estimating methods and rationale used in developing cost estimates and budgets.

(v) Provide for adequate supervision throughout the estimating and budgeting process.

(vi) Provide for consistent application of estimating and budgeting techniques.

(vii) Provide for detection and timely correction of errors.

(viii) Protect against cost duplication and omissions.

(ix) Provide for the use of historical experience, including historical vendor pricing information, where appropriate.

(x) Require use of appropriate analytical methods.

(xi) Integrate information available from other management systems.

DRAFT

(xii) Require management review, including verification of compliance with the company's estimating and budgeting policies, procedures, and practices.

(xiii) Provide for internal review of, and accountability for, the acceptability of the estimating system, including the budgetary data supporting indirect cost estimates and comparisons of projected results to actual results, and an analysis of any differences.

(xiv) Provide procedures to update cost estimates and notify the Contracting Officer in a timely manner.

(xv) Provide procedures that ensure subcontract prices are reasonable based on a documented review and analysis provided with the prime proposal, when practicable.

(xvi) Provide estimating and budgeting practices that consistently generate sound proposals that are compliant with the provisions of the solicitation and are adequate to serve as a basis to reach a fair and reasonable price.

(xvii) Have an adequate system description, including policies, procedures, and estimating and budgeting practices, that comply with the Federal Acquisition Regulation (48 CFR chapter 1) and Department of Energy Acquisition Regulation (48 CFR chapter 9).

(E) Significant deficiencies.

(1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's estimating system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning— -

i. Remaining significant deficiencies;

ii. The adequacy of any proposed or completed corrective action; and

iii. System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(F) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(G) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's estimating system, and the contract includes the Section H clause Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

H.18 DOE-H-2024 EARNED VALUE MANAGEMENT SYSTEM (OCT 2014)

(A) Definitions. As used in this clause—

-Acceptable earned value management system means an earned value management system that generally complies with system criteria in paragraph (b) of this clause.
-Earned value management system means an earned value management system that complies with the earned value management system guidelines in the ANSI/EIA-748.
-Over Target Baseline means an overrun to the Contract Budget Base (CBB) which is formally incorporated into the Performance Measurement Baseline (PMB) for management purposes.
-Over Target Schedule means the term used to describe a condition where a baseline schedule is time-phased beyond the contract completion date.
-Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(B) System criteria. In the performance of this contract, the Contractor shall use-

(1) An Earned Value Management System (EVMS) that complies with the EVMS guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA-748, current version at time of award); and

(2) Management procedures.

i. Management procedures provide for generation of timely, reliable, and verifiable information for DOE Integrated Program Management Report (IPMR) data item of this contract.

ii. The Contractor shall use Department of Defense's Data Item Description (DID) Integrated Program Management Report (IPMR), DI-MGMT-81861, (current version at time of award) which contains data for measuring cost and schedule performance for this DOE contract. The report's structure has seven formats that contain the content and relationships required for electronic submissions. DOE does not use section 2.8 Applicability of DI-MGMT-81861 for electronic data submissions, in lieu of this section, the Contractor shall use Project Assessment and Reporting System (PARS II). Data shall be submitted by the Contractor electronically by uploading the data into the PARS II in accordance with the "Contractor Project Performance Upload Requirements" document maintained by the DOE Office of Acquisition and Project Management (OAPM). All requested data shall be submitted timely and accurately, and shall be current as of the close of the previous month's accounting period.

(C) If the Contractor has one or more DOE contracts valued at $20,000,000 or greater per contract for a total contract value of $50,000,000 or more which support DOE Capital Asset Projects, the Contractor shall use an EVMS that has been determined to be acceptable by DOE. If, at the time of award, the Contractor's EVMS has not been determined by DOE to be in compliance with the EVMS guidelines as stated in paragraph (b)(1) of this clause, the Contractor shall apply its current system to the contract and shall take necessary actions to meet the milestones in the Contractor's EVMS plan.

(D) If this contract has a total value of less than $50,000,000 and does not meet the condition described at (c) above, the Government will not make a formal determination that the Contractor's EVMS complies with the EVMS guidelines in ANSI/EIA-748 with respect to the contract. The use of the Contractor's EVMS for this contract does not imply a Government determination of the Contractor's compliance with the EVMS guidelines in ANSI/EIA-748 for application to future contracts.

(E) The Contractor shall submit notification of all proposed changes to the EVMS procedures and the impact of those changes to DOE. If this contractor has one or more contracts in support of DOE Capital Asset Projects and the total contract values are $20,000,000 or greater per contract for total contract values of $50,000,000 or more, unless a waiver is granted by DOE, any EVMS changes proposed by the Contractor require approval of DOE prior to implementation. DOE will advise the Contractor of the acceptability of such changes as soon as practicable (generally within 30 calendar days) after receipt of the Contractor's notice of proposed changes. If DOE waives the advance approval

requirements, the Contractor shall disclose EVMS changes to DOE at least 14 calendar days prior to the effective date of implementation.

(F) Integrated baseline reviews.

(1) The purpose of the integrated baseline reviews (IBR) is to verify the technical content and the realism of the related performance budgets, resources, and schedules. It should provide a mutual understanding of the inherent risks in the offerors'/contractors' performance plans and the underlying management control systems, and it should formulate a plan to handle these risks. DOE and the Contractor will use the IBR process described in the National Defense Industrial Association Program Management Systems Committee Integrated Baseline Review (NDIA PMSC IBR) Guide (current version at time of award).

(2) The Government will schedule IBRs as early as practicable, and the review process will be conducted not later than 180 calendar days after—

i. Contract award;
ii. The exercise of significant contract options; and
iii. The incorporation of major modifications.

During such reviews, the Government and the Contractor will jointly assess the Contractor's baseline to be used for performance measurement to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

(G) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the performance criteria referenced in paragraph (b) of this clause.

(H) When indicated by contract performance, the Contractor shall submit a request for approval to initiate an over-target baseline or over-target schedule to the Contracting Officer. The request shall include a top-level projection of cost and/or schedule growth, a determination of whether or not performance variances will be retained, and a schedule of implementation for the rebaselining. The Government will acknowledge receipt of the request in a timely manner (generally within 30 calendar days).

DRAFT

(I) Significant deficiencies.

(1) The Contracting Officer will provide an initial determination to the Contractor, in writing, on any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's EVMS. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—-

i. Remaining significant deficiencies;

ii. The adequacy of any proposed or completed corrective action;

iii. System noncompliance, when the Contractor's existing EVMS fails to comply with the earned value management system guidelines in the ANSI/EIA-748; and

iv. System disapproval, if initial EVMS validation is not successfully completed within the timeframe approved by the Contracting Officer, or if the Contracting Officer determines that the Contractor's earned value management system contains one or more significant deficiencies in high-risk guidelines in ANSI/EIA-748 standards (guidelines 1, 3, 6, 7, 8, 9, 10, 12, 16, 21, 23, 26, 27, 28, 30, or 32). When the Contracting Officer determines that the existing earned value management system contains one or more significant deficiencies in one or more of the remaining 16 guidelines in ANSI/EIA-748 standards, the contracting officer will use discretion to disapprove the system based on input received from the DOE Office of Acquisition and Project Management or the DOE Program Office, herein referred to as the functional specialists.

DRAFT

(4) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(J) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's EVMS, and the contract includes the Section H clause Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(K) With the exception of paragraphs (I) and (J) of this clause, for contracts valued at $20 million or more requiring EVMS, the contractor shall flow down appropriate EVMS requirements to its subcontractors in order for the contractor to meet all requirements of this clause.

[Contracting Officer to insert names of subcontractors (or subcontracted effort if subcontractors have not been selected) designated for application of the EVMS requirements of this clause.]

(L) Adopting previous Contractor's previously certified earned value management (EVM) process. If the Contractor plans to adopt the existing system from the previous Contractor or DOE-site, the Contractor is responsible for the system and shall comply with the system requirements required in this clause. The existing system shall utilize the same DOE approved EVM Process Description and the same EVM training as the previous system. The Contractor shall— -

(1) Identify the corporate entity which owns the certified EVM process and provide the certification documentation;

(2) Obtain DOE prior approval or Advanced Agreement including DOE approval of process changes and joint surveillance;

(3) Be responsible for compliance with the system criteria required in paragraph (b) of this clause; and

(4) Be responsible for correcting any significant deficiencies previously identified to the previous Contractor by the Contracting Officer in accordance with paragraph (i) of this clause. Within 45 days after receiving a copy of the previous

contractor's final determination, the Contractor shall follow paragraph (i)(4) and either correct any significant deficiencies or submit an acceptable corrective action plan. The Contracting Officer or designee, will provide a copy of the previous contractor's final determination.

H.19 DOE-H-2025 ACCOUNTING SYSTEM ADMINISTRATION (OCT 2014)

(A) Definitions. As used in this clause—-

(1) Acceptable accounting system means a system that complies with the system criteria in paragraph (c) of this clause to provide reasonable assurance that—

(i) Applicable laws and regulations are complied with;

(ii) The accounting system and cost data are reliable;

(iii) Risk of misallocations and mischarges are minimized; and

(iv) Contract allocations and charges are consistent with billing procedures.

(2) Accounting system means the Contractor's system or systems for accounting methods, procedures, and controls established to gather, record, classify, analyze, summarize, interpret, and present accurate and timely financial data for reporting in compliance with applicable laws, regulations, and management decisions, and may include subsystems for specific areas such as indirect and other direct costs, compensation, billing, labor, and general information technology.

(3) Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(B) General.

The Contractor shall establish and maintain an acceptable accounting system. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system criteria required in this clause. The Contractor shall provide in writing to the Contracting Officer documentation that its accounting system meets the system criteria in paragraph (c) of this clause no later than 60 days after contract award. Failure to maintain an acceptable accounting system, as defined in this clause, shall result in the withholding of payments if the contract includes the Section H clause Contractor Business Systems, and also may result in disapproval of the system.

DRAFT

(C) System criteria.

(2) The Contractor's accounting system shall provide for—-

(a) A sound internal control environment, accounting framework, and organizational structure;
(b) Proper segregation of direct costs from indirect costs;
(c) Identification and accumulation of direct costs by contract;
(d) A logical and consistent method for the accumulation and allocation of indirect costs to intermediate and final cost objectives;
(e) Accumulation of costs under general ledger control;
(f) Reconciliation of subsidiary cost ledgers and cost objectives to general ledger;
(g) Approval and documentation of adjusting entries;
(h) Management reviews or internal audits of the system to ensure compliance with the Contractor's established policies, procedures, and accounting practices;
(i) A timekeeping system that identifies employees' labor by intermediate or final cost objectives;
(j) A labor distribution system that charges direct and indirect labor to the appropriate cost objectives;
(k) Interim (at least monthly) determination of costs charged to a contract through routine posting of books of account;
(l) Exclusion from costs charged to Government contracts of amounts which are not allowable in terms of 48 CFR part 31, Contract Cost Principles and Procedures, and other contract provisions;
(m) Identification of costs by contract line item and by units (as if each unit or line item were a separate contract), if required by the contract;
(n) Segregation of preproduction costs from production costs, as applicable;
(o) Cost accounting information, as required—-

i. By contract clauses concerning limitation of cost (48 CFR 52.232-20), limitation of funds (48 CFR 52.232-22), or allowable cost and payment (48 CFR 52.216-7); and
ii. To readily calculate indirect cost rates from the books of accounts;

(p) Billings that can be reconciled to the cost accounts for both current and cumulative amounts claimed and comply with contract terms;
(q) Adequate, reliable data for use in pricing follow-on acquisitions; and
(r) Accounting practices in accordance with standards promulgated by the Cost Accounting Standards Board, if applicable, otherwise, Generally Accepted Accounting Principles.

DRAFT

(D) Significant deficiencies.

(1) The Contracting Officer will provide an initial determination to the Contractor, in writing, on any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's accounting system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—-

i. Remaining significant deficiencies;
ii. The adequacy of any proposed or completed corrective action; and
iii. System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(E) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(F) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's accounting system, and the contract includes the Section H clause Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

H.20 DOE-H-2026 CONTRACTOR PURCHASING SYSTEM ADMINISTRATION (OCT 2014)

(A) Definitions. As used in this clause—-

-Acceptable purchasing system means a purchasing system that complies with the system criteria in paragraph (c) of this clause.

-Purchasing system means the Contractor's system or systems for purchasing and subcontracting, including make-or-buy decisions, the selection of vendors, analysis of quoted prices, negotiation of prices with vendors, placing and administering of orders, and expediting delivery of materials.

-Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(B) General.

The Contractor shall establish and maintain an acceptable purchasing system. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system criteria required in this clause. The Contractor shall provide in writing to the Contracting Officer documentation that its purchasing system meets the system criteria in paragraph (c) of this clause no later than 60 days after contract award. Failure to maintain an acceptable purchasing system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(C) System criteria.

The Contractor's purchasing system shall—-

(1) Have an adequate system description including policies, procedures, and purchasing practices that comply with the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1) and the Department of Energy Acquisition Regulation (48 CFR Chapter 9);

(3) Ensure that all applicable purchase orders and subcontracts contain all flowdown clauses, including terms and conditions and any other clauses needed to carry out the requirements of the prime contract;

(4) Maintain an organization plan that establishes clear lines of authority and responsibility;

(5) Ensure all purchase orders are based on authorized requisitions and include a complete and accurate history of purchase transactions to support vendor selected, price paid, and document the subcontract/purchase order files which are subject to Government review;

(6) Establish and maintain adequate documentation to provide a complete and accurate history of purchase transactions to support vendors selected and prices paid;

(7) Apply a consistent make-or-buy policy that is in the best interest of the Government;

(8) Use competitive sourcing to the maximum extent practicable, and ensure debarred or suspended contractors are properly excluded from contract award;

(9) Evaluate price, quality, delivery, technical capabilities, and financial capabilities of competing vendors to ensure fair and reasonable prices;

(10) Require management level justification and adequate cost or price analysis, as applicable, for any sole or single source award;

(11) Perform timely and adequate cost or price analysis and technical evaluation for each subcontractor and supplier proposal or quote to ensure fair and reasonable subcontract prices;

(12) Document negotiations in accordance with 48 CFR 15.406-3;

(13) Seek, take, and document economically feasible purchase discounts, including cash discounts, trade discounts, quantity discounts, rebates, freight allowances, and company-wide volume discounts;

(14) Ensure proper type of contract selection and prohibit issuance of cost-plus-a-percentage-of-cost subcontracts;

(15) Maintain subcontract surveillance to ensure timely delivery of an acceptable product and procedures to notify the Government of potential subcontract problems that may impact delivery, quantity, or price;

(16) Document and justify reasons for subcontract changes that affect cost or price;

(17) Notify the Government of the award of all subcontracts that contain the 48 CFR Chapter 1 and 48 CFR Chapter 9 flowdown clauses that allow for Government audit of those subcontracts, and ensure the performance of audits of those subcontracts;

(18) Enforce adequate policies on conflict of interest, gifts, and gratuities, including the requirements of the 41 U.S.C. chapter 87, Kickbacks;

(19) Perform internal audits or management reviews, training, and maintain policies and procedures for the purchasing department to ensure the integrity of the purchasing system;

DRAFT

(20) Establish and maintain policies and procedures to ensure purchase orders and subcontracts contain mandatory and applicable flowdown clauses, as required by the 48 CFR chapter 1, including terms and conditions required by the prime contract and any clauses required to carry out the requirements of the prime contract;

(21) Provide for an organizational and administrative structure that ensures effective and efficient procurement of required quality materials and parts at the best value from responsible and reliable sources;

(22) Establish and maintain selection processes to ensure the most responsive and responsible sources for furnishing required quality parts and materials and to promote competitive sourcing among dependable suppliers so that purchases are reasonably priced and from sources that meet contractor quality requirements;

(23) Establish and maintain procedures to ensure performance of adequate price or cost analysis on purchasing actions;

(24) Establish and maintain procedures to ensure that proper types of subcontracts are selected, and that there are controls over subcontracting, including oversight and surveillance of subcontracted effort; and

(25) Establish and maintain procedures to timely notify the Contracting Officer, in writing, if-

i. The Contractor changes the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of the work to be performed under the contract, task order, or delivery order. The notification shall identify the revised cost of the subcontract effort and shall include verification that the Contractor will provide added value; or

ii. Any subcontractor changes the amount of lower-tier subcontractor effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as related to the work to be performed by the lower-tier subcontractor(s).

DRAFT

(D) Significant deficiencies.

(1) The Contracting Officer will provide notification of initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's purchasing system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—-

i. Remaining significant deficiencies;
ii. The adequacy of any proposed or completed corrective action; and
iii. System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(E) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the deficiencies.

(F) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's purchasing system, and the contract includes the Section H clause Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

H.21 DOE-H-2027 CONTRACTOR PROPERTY MANAGEMENT SYSTEM ADMINISTRATION (OCT 2014)

(A) Definitions. As used in this clause—-

-Acceptable property management system means a property system that complies with the system criteria in paragraph (c) of this clause.

-Property management system means the Contractor's system or systems for managing and controlling Government property.

-Significant deficiency means a shortcoming in the system that materially affects the ability of officials of the Department of Energy to rely upon information produced by the system that is needed for management purposes.

(B) General.

The Contractor shall establish and maintain an acceptable property management system. If the Contractor plans to adopt the existing system from the previous Contractor, the Contractor is responsible for the system and shall comply with the system criteria required in this clause. The Contractor shall provide in writing to the Contracting Officer documentation that its property management system meets the system criteria in paragraph (c) of this clause no later than 60 days after contract award. Failure to maintain an acceptable property management system, as defined in this clause, may result in disapproval of the system by the Contracting Officer and/or withholding of payments.

(C) System criteria.

The Contractor's property management system shall be in accordance with paragraph (f) of the contract clause at 48 CFR 52.245-1.

(D) Significant deficiencies.

(1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's property management system. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing. In the event the Contractor did not respond in writing to the initial determination within the response time, this lack of response shall indicate that the Contractor agrees with the initial determination.

(3) The Contracting Officer will evaluate the Contractor's response or the Contractor's lack of response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—-

i. Remaining significant deficiencies;
ii. The adequacy of any proposed or completed corrective action; and

iii. System disapproval, if the Contracting Officer determines that one or more significant deficiencies remain.

(E) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(F) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's property management system, and the contract includes the Section H clause Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

III. DOE CORPORATE CLAUSES OTHER THAN CHRM OR BUSINESS SYSTEMS

H.22 DOE-H-2006 DEFENSE NUCLEAR FACILITY SAFETY BOARD (OCT 2014)

The Contractor shall conduct activities in accordance with those DOE commitments to the Defense Nuclear Facilities Safety Board (DNFSB) which are contained in implementation plans and other DOE correspondence to the DNFSB. The Contractor shall support preparation of DOE responses to DNFSB issues and recommendations which affect or can affect contract work. Based on the Contracting Officer's Representative direction, the Contractor shall fully cooperate with the DNFSB and provide access to such work areas, personnel, and information as necessary. The Contractor shall maintain a document process consistent with the DOE manual on interface with the DNFSB. The Contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

H.23 DOE-H-2012 SUSTAINABLE ACQUISITION UNDER DOE CONSTRUCTION CONTRACTS (OCT 2014)

Pursuant to Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy is committed to managing its facilities in an environmentally preferable manner that will promote the natural environment and protect the health and well-being of its Federal employees and contractor service providers. In the performance of work under this contract, the Contractor shall exert its best efforts to provide its services in a manner that will promote the natural environment and protect the health and well-being of Federal and contract employees at the facility. Sustainable acquisition or environmentally preferable contracting has several interacting initiatives. Among the initiatives are the following:

• Recycled Content Products are described at http://epa.gov/cpg • Biobased Products are described at http://www.biopreferred.gov/ • Energy efficient products are at http://energystar.gov/products for Energy Star products • Energy efficient products are at

http://www.eere.energy.gov/femp/procurement for FEMP designated products • Environmentally Preferable Computers are at http://www.epeat.net

• Non-Ozone Depleting Alternative Products are at http://www.epa.gov/ozone/strathome.html • Water efficient plumbing products are at http://epa.gov/watersense

To the extent that the services provided by the Contractor require provision of any of the above types of products, the Contractor is expected to provide the sustainable, environmentally preferable type of product unless that type of product is not available competitively within a reasonable time, at a reasonable price, is not life cycle cost efficient in the case of energy consuming products, or does not meet reasonable performance standards. The clauses at FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223-15, Energy Efficiency in Energy Consuming Products, and 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, in Section I of this contract require the use of products that have biobased content, are energy efficient, or have recycled content.

In case of an apparent inconsistency between this provision and any specification elsewhere in the Contract, consult the Contracting Officer for resolution.

H.24 DOE-H-2014 CONTRACTOR ACCEPTANCE OF NOTICE OF VIOLATION OR ALLEGED VIOLATIONS, FINES, AND PENALTIES (OCT 2014)

(A) The Contractor shall accept, in its own name, notices of violation(s) or alleged violations (NOVs/NOAVs) issued by federal or state regulators to the Contractor resulting from the Contractor's performance of work under this contract, without regard to liability. The allowability of the costs associated with fines and penalties shall be subject to other provisions of this contract.

(B) After providing DOE advance written notice, the Contractor shall conduct negotiations with regulators regarding NOVs/NOAVs and fine and penalties. DOE may in its discretion choose to be in charge of, and direct, all negotiations with regulatory agencies regarding permits, fines, penalties, and any other proposed notice, notice, administrative order, and any similar type of notice as described in paragraph (B) above. However, the Contractor shall not make any commitments or offers to regulators that would bind the Government, including monetary obligations, without first obtaining written approval from the CO. Failure to obtain advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.

(C) The Contractor shall notify DOE promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.

H.25 DOE-H-2016 PERFORMANCE GUARANTEE AGREEMENT (OCT 2014)

The contractor's parent organization(s) or all member organizations if the Contractor is a joint venture, limited liability company, or other similar entity, shall guarantee performance of the contract as evidenced by the Performance Guarantee Agreement incorporated in the contract in Section J, Attachment J-6. If the Contractor is a joint venture, limited liability company, or other similar entity where more than one organization is involved, the parent(s) or all member organizations shall assume joint and severable liability for the performance of the contract. In the event any of the signatories to the Performance Guarantee Agreement enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

H.26 DOE-H-2017 RESPONSIBLE CORPORATE OFFICIAL AND CORPORATE BOARD OF DIRECTORS (OCT 2014)

The Contractor has provided a guarantee of performance from its parent company(s) in the form set forth in the Section J Attachment J-6 entitled, "Performance Guarantee Agreement." The individual signing the "Performance Guarantee Agreement" for the parent company(s) should be the Responsible Corporate Official. The Responsible Corporate Official is the person who has sole corporate (parent company(s)) authority and accountability for Contractor performance. DOE may contact, as necessary, the single Responsible Corporate Official identified below regarding Contract performance issues.

Responsible Corporate Official:
Name: _____ TBP _____
Position: _____ TBP _____
Company/Organization: _____ TBP _____
Address: _____ TBP _____
Phone: _____ TBP _____
Facsimile: _____ TBP _____
Email: _____ TBP _____

Should the Responsible Corporate Official or their contact information change during the period of the Contract, the Contractor shall promptly notify the Contracting Officer in writing of the change.

Identified below is each member of the Corporate Board of Directors that will have corporate oversight. DOE may contact, as necessary, any member of the Corporate Board of Directors, who is accountable for corporate oversight of the Contractor organization and key personnel.

DRAFT

Corporate Board of Directors:
Name: _____ TBP _____
Position: _____ TBP _____
Company/Organization: _____ TBP _____
Address: _____ TBP _____
Phone: _____ TBP _____
Facsimile: _____ TBP _____
Email: _____ TBP _____

Should any change occur to the Corporate Board of Directors or their contact information during the period of the Contract, the Contractor shall promptly notify the Contracting Officer in writing of the change.

H.27 DOE-H-2018 PRIVACY ACT SYSTEMS OF RECORDS (OCT 2014) (REVISED)

The Contractor shall design, develop, or adopt the following systems of records on individuals to accomplish an agency function pursuant to the Section I Clause entitled, FAR 52.224-2, Privacy Act.

DOE Privacy Act System Number	DOE Privacy Act System Description
DOE-5	Personnel Records of Former Contractor Employees (includes all former workers)
DOE-10	Energy Employees Occupational Illness Compensation Program Act Files
DOE-11	Emergency Operations Notification Call List
DOE-13	Payroll & Leave Records
DOE-14	Report of Compensation
DOE-15	Intelligence Related Access Authorization
DOE-23	Property Accountability System
DOE-28	General Training Records
DOE-33	Personnel Medical Records (present and former DOE employees and Contractor employees)
DOE-35	Personnel Radiation Exposure Records
DOE-38	Occupational and Industrial Accident Records
DOE-43	Personnel Security Clearance Files
DOE-48	Security Education and/or Infraction Reports
DOE-51	Employee and Visitor Access Control Records
DOE-52	Access Control Records of International Visits, Assignments, and Employment at DOE Facilities and Contractor Sites
DOE-53	Access Authorization for ADP Equipment
DOE-77	Physical Fitness Test Records (for armed, uniformed guards)
DOE-81	Counterintelligence Administrative and Analytical Records and Reports
DOE-84	Counterintelligence Investigative Records
DOE-88	Epidemiologic and Other Health Studies, Surveys, and Surveillances

If the above list does not address all of the systems of records that are generated based on contract performance, then the contractor shall notify the Contracting Officer prior to

contract award or as soon as the discrepancy is discovered. The contractor shall monitor the identified systems and notify the Contracting Officer immediately if there is a change to an existing system or if a new system is needed. Lack of notification does not exempt the contractor from complying with the Privacy Act. To ensure that systems are monitored consistently, contractors must review the list annually and notify the Contracting Officer, in writing, that the list is accurate and up to date.

The above list shall be revised by mutual agreement between the contractor and the Contracting Officer, in consultation with the local Privacy Act Officer (PAO) and/or General Counsel, as necessary, to keep it current. A formal modification to the contract is not required to incorporate these revisions; however, the revisions become effective upon mutual written agreement of the parties. The mutually agreed upon revisions shall have the same effect as if they were actually among the systems listed in the table above, for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of the contract clause for FAR 52.224-2, *Privacy Act*. The revisions will be formally incorporated at the next convenient contract modification. Additional information on Privacy Act Systems of Records can be found on the DOE Privacy Office home page.

The "Privacy Act Notification" (FAR 52.224-1) and "Privacy Act" (FAR 52.224-2) clauses are mandatory flow-down clauses that must be included in any subcontract requiring design, development, or operation of a Privacy Act system of record, including third-party medical services contracts. Such subcontracts also require flow down of clauses specifically identifying applicable Privacy Act systems of records into the subcontracts. For example, medical services contracts must include the substance of the H clause above identifying system of record DOE-33, "Personnel Medical Records," along with language on records turnover. Subcontracts must also contain scope requirements necessary to ensure DOE and contractor compliance with applicable records management and Privacy Act requirements.

H.28 DOE-H-2019 DISPOSITION OF INTELLECTUAL PROPERTY – FAILURE TO COMPLETE CONTRACT PERFORMANCE (OCT 2014)

The following provisions shall apply in the event the Contractor does not complete Contract performance for any reason:

(A) The Government may take possession of and use all technical data, including limited rights data, restricted computer software, and data and software obtained from subcontractors, licensors, and licensees, necessary to complete the work in conformance with this contract, including the right to use the data in any Government solicitations for the completion of the work contemplated under this contract. Technical data includes, but is not limited to, specifications, designs, drawings, operations manuals, flowcharts, software, databases and any other information necessary for of the completion of the work under this contract. Limited rights data and restricted computer software will be protected in accordance with the provisions of the Section I Clause entitled DEAR 970.5227-1 Rights in Data-Facilities. The

Contractor shall ensure that its subcontractors and licensors make similar rights available to the Government and its contractors.

(B) The Contractor agrees to and does hereby grant to the Government an irrevocable, non-exclusive, paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice by the Contractor, and any other intellectual property, including technical data, which are owned or controlled by the Contractor, at any time through completion of this contract and which are incorporated or embodied in the construction of the facilities or which are utilized in the operation or remediation of the facilities or which cover articles, materials or products manufactured at a facility: (1) to practice or to have practiced by or for the Government at the facility; and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity or scope of, or title to, any rights or patents or other intellectual property herein licensed.

(C) In addition, the Contractor will take all necessary steps to assign permits, authorizations, leases, and licenses in any third party intellectual property to the Government, or such other third party as the Government may designate, that are necessary for the completion of the work contemplated under this Contract.

H.29 DOE-H-2020 PRICE-ANDERSON AMENDMENTS ACT NONCOMPLIANCE (OCT 2014)

The Contractor shall establish an internal Price-Anderson Amendments Act (PAAA) noncompliance identification, tracking, and corrective action system and shall provide access to and fully support DOE reviews of the system. The Contractor shall also implement a Price- Anderson Amendments Act reporting process which meets applicable DOE standards. The Contractor shall be accountable for ensuring that subcontractors adhere to these requirements.

H.30 DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014)

(A) Imminent Health and Safety Hazard is a given condition or situation which, if not immediately corrected, could result in a serious injury or death, including exposure to radiation and toxic/hazardous chemicals. Imminent Danger in relation to the facility safety envelope is a condition, situation, or proposed activity which, if not terminated, could cause, prevent mitigation of, or seriously increase the risk of (1) nuclear criticality, (2) radiation exposure, (3) fire/explosion, and/or (4) toxic hazardous chemical exposure.

(B) Work Stoppage. In the event of an Imminent Health and Safety Hazard, identified by facility line management or operators or facility health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying

the imminent hazard situation shall immediately take actions to eliminate or mitigate the hazard (i.e., by directing the operator/implementer of the activity or process causing the imminent hazard to stop work, or by initiating emergency response actions or other actions) to protect the health and safety of the workers and the public, and to protect U.S. Department of Energy (DOE) facilities and the environment. In the event an imminent health and safety hazard is identified, the individual or group identifying the hazard should coordinate with an appropriate Contractor official, who will direct the shutdown or other actions, as required. Such mitigating action should subsequently be coordinated with the DOE and Contractor management. The suspension or stop-work order should be promptly confirmed in writing by the Contracting Officer.

(C) Shutdown. In the event of an imminent danger in relation to the facility safety envelope or a non-Imminent Health and Safety Hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the potential health and safety hazard may recommend facility shutdown in addition to any immediate actions needed to mitigate the situation. However, the recommendation must be coordinated with Contractor management, and the DOE Site Manager. Any written direction to suspend operations shall be issued by the Contracting Officer, pursuant to the Clause entitled, "FAR 52.242-15, Stop-Work Order."

(D) Facility Representatives. DOE personnel designated as Facility Representatives provide the technical/safety oversight of operations. The Facility Representative has the authority to "stop work," which applies to the shutdown of an entire plant, activity, or job. This stop-work authority will be used for an operation of a facility which is performing work the Facility Representative believes:

(1) Poses an imminent danger to health and safety of workers or the public if allowed to continue;
(2) Could adversely affect the safe operation of, or could cause serious damage to the facility if allowed to continue; or
(3) Could result in the release of radiological or chemical hazards to the environment in excess of regulatory limits.

(E) This clause flows down to all subcontractors at all tiers. Therefore, the Contractor shall insert a clause, modified appropriately to substitute "Contractor Representatives" for "the Contracting Officer" in all subcontracts.

DRAFT

H.31 DOE-H-2033 ALTERNATIVE DISPUTE RESOLUTION (OCT 2014)

(A) The DOE and the Contractor both recognize that methods for fair and efficient resolution of contractual issues in controversy by mutual agreement are essential to the successful and timely completion of contract requirements. Accordingly, DOE and the Contractor shall use their best efforts to informally resolve any contractual issue in controversy by mutual agreement. Issues of controversy may include a dispute, claim, question, or other disagreement. The parties agree to negotiate with each other in good faith, recognizing their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties.

(B) If a mutual agreement cannot be reached through negotiations within a reasonable period of time, the parties may use a process of alternate dispute resolution (ADR) in accordance with the clause at FAR 52.233-1, Disputes. The ADR process may involve mediation, facilitation, fact-finding, group conflict management, and conflict coaching by a neutral party. The neutral party may be an individual, a board comprised of independent experts, or a company with specific expertise in conflict resolution or expertise in the specific area of controversy. The neutral party will not render a binding decision, but will assist the parties in reaching a mutually satisfactory agreement. Any opinions of the neutral party shall not be admissible in evidence in any subsequent litigation proceedings.

(C) Either party may request that the ADR process be used. The Contractor shall make a written request to the Contracting Officer, and the Contracting Officer shall make a written request to the appropriate official of the Contractor. A voluntary election by both parties is required to participate in the ADR process. The parties must agree on the procedures and terms of the process, and officials of both parties who have the authority to resolve the issue must participate in the agreed upon process.

(D) ADR procedures may be used at any time that the Contracting Officer has the authority to resolve the issue in controversy. If a claim has been submitted by the Contractor, ADR procedures may be applied to all or a portion of the claim. If ADR procedures are used subsequent to issuance of a Contracting Officer's final decision under the clause at FAR 52.233-1, Disputes, their use does not alter any of the time limitations or procedural requirements for filing an appeal of the Contracting Officer's final decision and does not constitute reconsideration of the final decision.

(E) If the Contracting Officer rejects the Contractor's request for ADR proceedings, the Contracting Officer shall provide the Contractor with a written explanation of the specific reasons the ADR process is not appropriate for the resolution of the dispute. If the Contractor rejects the Contracting Officer's request to use ADR procedures, the Contractor shall provide the Contracting Officer with the reasons for rejecting the request.

DRAFT

H.32 DOE-H-2034 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES (OCT 2014)

The Government may award contracts to other contractors for work to be performed at a DOE-owned or –controlled site or facility. The Contractor shall cooperate fully with all other on-site DOE contractors and Government employees. The Contractor shall coordinate its own work with such other work as may be directed by the Contracting Officer or a duly authorized representative. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by a Government employee.

A list of other known DOE Prime Contractors is provided in Section J, Exhibit C-3. This list may be modified by the Contracting Officer.

H.33 DOE-H-2035 ORGANIZATIONAL CONFLICT OF INTEREST MANAGEMENT PLAN (OCT 2014) REVISED

Within 15 calendar days after the Notice to Proceed, the Contractor shall submit to the Contracting Officer for approval an Organizational Conflict of Interest (OCI) Management Plan (Plan). The Plan shall describe the Contractor's program to identify, avoid, neutralize, or mitigate potential or actual conflicts of interest that exist or may arise during contract performance and otherwise comply with the requirements of the clause at DEAR 952.209-72, Organizational Conflicts of Interest. The Plan shall be periodically updated as required during the term of the contract. The Plan shall include, as a minimum, the following:

(A) The procedures for identifying and evaluating past, present, and anticipated contracts of the Contractor, its related entities and other performing entities under the contract.

(B) The procedures the Contractor will utilize to avoid, neutralize, or mitigate potential or actual conflicts of interest.

(C) The procedures for reporting actual or potential conflicts of interest to the Contracting Officer.

(D) The procedures the Contractor will utilize to oversee, implement, and update the Plan, to include assigning responsibility for management, oversight and compliance to an individual in the Contractor's organization with full authority to implement the Plan.

(E) The procedures for ensuring all required representations, certifications and factual analyses are submitted to the Contracting Officer for approval in a timely manner.

(F) The procedures for protecting agency information that could lead to an unfair competitive advantage if disclosed including collecting disclosure agreements covering all individuals, subcontractors, and other entities with access to agency-sensitive information and physical safeguarding of such information.

(G) An OCI training and awareness program that includes periodic, recurring training and a process to evidence employee participation.

(H) The enforceable, employee disciplinary actions to be used by the Contractor for violation of OCI requirements.

H.34 DOE-H-2037 NATIONAL ENVIRONMENTAL POLICY ACT (OCT 2014)

The work under this contract requires activities to be subject to the National Environmental Policy Act of 1969 (NEPA). The Contractor shall supply to DOE certain environmental information, as requested, in order for DOE to comply with NEPA and its implementing policies and regulations. Funds obligated under this contract shall only be expended by the Contractor on the activities set out below, unless the Contracting Officer modifies the listed activities or notifies the Contractor that NEPA requirements have been satisfied and the Contractor is authorized to perform the complete work required under the contract.

All contract activities including groundwater monitoring and investigations, aggregate area investigations and cleanups, material disposal area investigations and evaluations, contact-handled transuranic waste processing, and programmatic type support can be performed without specific NEPA impacts. However, during this period should sufficient progress be made in the areas of specific capital project development and potential groundwater remedy projects or activities, some activities may require support for NEPA activities before additional progress can be made.

H.35 DOE-H-2041 SUSTAINABLE ACQUISITION UNDER DOE SERVICE CONTRACTS (OCT 2014)

(A) Pursuant to Executive Orders 13423, Strengthening Federal Environmental, Energy and Transportation Management, and 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy (DOE) is committed to managing its facilities in a manner that will promote the natural environment and protect the health and well-being of its Federal employees and contractor service providers. The Contractor shall use its best efforts to support DOE in meeting those commitments, including sustainable acquisition or environmentally preferable contracting which may involve several interacting initiatives, such as -

(1) Alternative Fueled Vehicles and Alternative Fuels;
(2) Biobased Content Products (USDA Designated Products);
(3) Energy Efficient Products;

(4) Non-Ozone Depleting Alternative Products;
(5) Recycled Content Products (EPA Designated Products); and
(6) Water Efficient Products (EPA WaterSense Labeled Products).

(B) The Contractor should become familiar with these information resources:
(1) Recycled Products are described at http://epa.gov/cpg.
(2) Biobased Products are described at http://www.biopreferred.gov/.
(3) Energy efficient products are described at http://energystar.gov/ products for Energy Star products.
(4) FEMP designated products are described at http://www.eere.energy.gov/femp/procurement.
(5) Environmentally Preferable Computers are described at http://www.epeat.net.
(6) Non-Ozone Depleting Alternative Products are described at http://www.epa.gov/ozone/strathome.html.
(7) Water efficient plumbing fixtures are described at http://epa.gov/watersense.

(C) If, in the course of providing services at the DOE site, the Contractor's services necessitate the acquisition of any of the above types of products, it is expected that the Contractor will acquire the sustainable, environmentally preferable models unless the product is not available competitively within a reasonable time, at a reasonable price, is not life cycle cost efficient in the case of energy consuming products, or does not meet reasonable performance standards. While there is no formal reporting, DOE prepares a sustainable acquisition annual report and the Contractor may be asked by the Contracting Officer to provide information in support of DOE's report.

H.36 DOE-H-2043 ASSIGNMENT AND TRANSFER OF SUBCONTRACTS (OCT 2014)

(A) Assignment of DOE Prime Contracts. During the period of performance of this contract it may become necessary for the U.S. Department of Energy (DOE) to transfer and assign existing or future DOE prime contracts supporting site work to this contract. The Contractor shall accept the transfers and assignments of contracts. Any recommendations and/or suggestions on individual transfers shall be submitted in writing to the Contracting Officer prior to the transfer or assignment.

(B) Transfer of Subcontracts. As the successor contractor, the Contractor agrees to accept transfer of existing subcontracts as determined necessary by DOE for continuity of operations. The Contractor shall use its best efforts to negotiate changes to the assigned subcontracts incorporating mandatory flow-down provisions at no cost. If the subcontractor refuses to accept the changes or requests price adjustments, the Contractor will notify the Contracting Officer in writing. DOE reserves the right to direct the

Contractor to transfer to DOE or another Contractor any subcontract awarded under this contract.

H.37 DOE-H-2044 MATERIAL SAFETY DATA SHEET AVAILABILITY (OCT 2014)

In implementation of the clause at FAR 52.223-3, Hazardous Material Identification and Material Safety Data, the Contractor shall obtain, review and maintain a Material Safety Data Sheet (MSDS) in a readily accessible manner for each hazardous material (or mixture containing a hazardous material) ordered, delivered, stored or used; and maintain an accurate inventory and history of use of hazardous materials at each use and storage location. The MSDS shall conform to the requirements of 29 CFR 1910.1200(g).

H.38 DOE-H-2045 CONTRACTOR COMMUNITY COMMITMENT (OCT 2014)

(A) The Contractor, in fulfilling its commitments pursuant to the clause atDEAR 970.5226-3, Community Commitment, , shall submit to DOE an annual plan for community commitment activities and report on program progress semi-annually.

(B) The Contractor's annual plan for community commitment activities will identify those meaningful actions and activities that it intends to implement within the surrounding counties and local municipalities. The Contractor may engage in any community actions or activities it determines meets the objectives of DOE's community commitment policy. Actions and activities in the areas listed below are representative of the areas in which the Contractor may choose to perform. However, the list is not all inclusive and is not intended to preclude the Contractor from initiating and performing other constructive community activities nor involvement in charitable endeavors it deems worthwhile.

(1) Regional educational outreach programs. The objectives of these programs include teacher enhancement, student support, curriculum enhancement, educational technology, public understanding, and providing the services of contractor employees to schools, colleges, and universities. Regional educational outreach programs could involve providing contractor employees the opportunity to improve their employment skills and opportunities by an educational assistance allowance, provision for outside training programs either during or outside regular work hours, or executive training programs for non-executive employees. This could also involve participating in activities that foster relationships with regional educational institutions and other institutions of higher learning or encouraging students to pursue science, engineering, and technology careers

(2) Regional purchasing programs. The Contractor may conduct business alliances with regional vendors. These alliances may include training and mentoring programs to enable regional vendors to compete effectively for subcontracts and purchase orders and/or assistance with the development of business systems (accounting, budget, payroll, property, etc.) to enable

regional vendors to meet the audit and reporting requirements of the Contractor and DOE. These alliances may also serve to encourage the formation of regional trade associations which will better enable regional businesses to satisfy the Contractor's needs.

The Contractor may coordinate and cooperate with the Chambers of Commerce, Small Business Development Centers, and like organizations, and make prospective regional vendors aware of any assistance that may be available from these entities. DOE encourages the use of regional vendors in fulfilling contract requirements.

(3) Community support. The Contractor may directly sponsor specific local community activities or sponsor individual employees to work with a specific local community activity. The Contractor may provide support and assistance to community service organizations. The Contractor may support strategic partnerships with professional and scientific organizations to enhance recruitment into all levels of its organization.

(C) The Contractor may use fee dollars to pay for its community commitment actions as it deems appropriate. All costs to be incurred by the Contractor for community commitment actions and activities are unallowable and non-reimbursable under the contract.

(D) The Contractor shall encourage its subcontractors, at all tiers, to participate in these activities.

H.39 DOE-H-2046 DIVERSITY PROGRAM (OCT 2014)

(A) The Contractor shall develop and implement a diversity program consistent with and in support of the DOE's diversity program. A diversity plan covering the full period of performance (base and option periods) shall be submitted to the Contracting Officer for approval within sixty (60) calendar days after the effective date of the contract. Once the diversity plan is approved by the Contracting Officer, the Contractor shall implement the diversity plan within thirty (30) calendar days of its approval by the Contracting Officer.

(B) The diversity plan shall address, at a minimum, the Contractor's approach to ensure an effective diversity program (including addressing applicable affirmative action and equal employment opportunity regulations) to include:

(1) a statement of the Contractor's policies and practices; and planned initiatives and activities which demonstrate a commitment to a diversity program, including recruitment strategies for hiring a diverse work force. The diversity plan shall also address, as a minimum, the Contractor's approach for promoting diversity through (1) the Contractor's work force; (2) educational outreach, including a mentor/protégé program; (3) stakeholder involvement and outreach; (4)

subcontracting; and (5)economic development.

(C) An annual diversity report shall be submitted pursuant to Section J, Attachment J-13 entitled, *Deliverables*. This report shall provide a list of accomplishments achieved, both internally and externally during the current reporting period, and projected initiatives during the next reporting period. The report shall also list any proposed changes to the diversity plan which shall be subject to the Contracting Officer's approval.

H.40 DOE-H-2048 PUBLIC AFFAIRS – CONTRACTOR RELEASES OF INFORMATION (OCT 2014)

In implementation of the clause at DEAR 952.204-75, Public Affairs, all communications or releases of information to the public, the media, or Members of Congress prepared by the Contractor related to work performed under the contract shall be reviewed and approved by DOE prior to issuance. Therefore, the Contractor shall, at least 14 calendar days prior to the planned issue date, submit a draft copy to the Contracting Officer of any planned communications or releases of information to the public, the media, or Members of Congress related to work performed under this contract. The Contracting Officer will obtain necessary reviews and clearances and provide the Contractor with the results of such reviews prior to the planned issue date.

H.41 DOE-H-2050 INCORPORATION OF SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2014)

(A) In accordance with the clause at FAR 52.219-9, Small Business Subcontracting Plan, the master subcontracting plan contained in Section J, Attachment J-1 is hereby incorporated into and made a part of this contract.

H.42 DOE-H-2052 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR – ALTERNATE I (OCT 2014) (DEVIATION)

(A) The following additional contractor Representations, Certifications and Other Statements are hereby incorporated into the contract by reference:

EVMS Submission Dated [Offeror Fill-In]

H.43 DOE-H-2053 WORKER SAFETY AND HEALTH PROGRAM IN ACCORDANCE WITH 10 CFR 851 (OCT 2014)

(A) The Contractor shall comply with all applicable safety and health requirements set forth in 10 CFR 851, Worker Safety and Health Program, and any applicable DOE Directives incorporate into the contract. The Contractor shall develop, implement, and maintain a written Worker Safety and Health Plan (WSHP) which shall describe the Contractor's method for complying with and implementing the applicable

requirements of 10 CFR 851. The WSHP shall be submitted to and approved by DOE. The approved WSHP must be implemented prior to the start of work. In performance of the work, the Contractor shall provide a safe and healthful workplace, and must comply with its approved WSHP and all applicable Federal and state environment, health, and safety regulations.

(B) The Contractor shall take all reasonable precautions to protect the environment, health, and safety of its employees, DOE personnel, and members of the public. When more than one contractor works in a shared workplace, the Contractor shall coordinate with the other contractors to ensure roles, responsibilities, and worker safety and health provisions are clearly delineated. The Contractor shall participate in all emergency response drills and exercises related to the Contractor's work and interface with other DOE contractors.

(C) The Contractor shall take all necessary and reasonable steps to minimize the impact of its work on DOE functions and employees, and immediately report all job-related injuries and/or illnesses which occur in any DOE facility to the Contracting Officer Representative (COR). Upon request, the Contractor shall provide to the COR a copy of occupational safety and health self-assessments and/or inspections of work sites for job hazards for work performed at DOE facilities.

(D) The Contracting Officer may notify the Contractor, in writing, of any noncompliance with the terms of this clause, and the corrective action(s) to be taken. After receipt of such notice, the Contractor shall immediately take such corrective action(s).

(E) In the event that the Contractor fails to comply with the terms and conditions of this clause, the Contracting Officer may, without prejudice to any other legal or contractual rights, issue a stop-work order halting all or any part of the work. Thereafter, the Contracting Officer may, at his or her discretion, cancel the stop-work order so that the performance of work may be resumed. The Contractor shall not be entitled to an equitable adjustment of the Contract amount or extension of the performance schedule due to any stop-work order issued under this clause.

(F) The Contractor shall flow down the requirements of this clause to all subcontracts at any tier.

(G) In the event of a conflict between the requirements of this clause and 10 CFR 851, the requirements of 10 CFR 851 shall take precedence.

H.44 DOE-H-2055 GOVERNMENT FURNISHED PROPERTY (OCT 2014)

In accordance with the clause FAR 52.245-1, Government Property, the Government will provide the property list in the procurement reference library.

DRAFT

H.45 DOE-H-2056 ANNUAL INDIRECT BILLING RATES (OCT 2014)

(A) Pursuant to the clause at FAR 52.216-7, Allowable Cost and Payment, indirect billing rates, revised billing rates (as necessary), and final indirect cost rate agreements must be established between the Contractor and the Department of Energy (DOE) for each of the Contractor's fiscal years for the life of the cost reimbursement type contract. These indirect rate agreements allow the Contractor to recover indirect expenses incurred during a fiscal year for which final indirect rates have not been established.

(B) Indirect billing and revised indirect billing rate proposals must represent the Contractor's best estimate of the anticipated indirect expenses to be incurred and the estimated allocation base for the current fiscal year in accordance with its approved accounting system. Revised billing rates allow the adjustment of the approved billing rates, based upon updated information, in order to prevent significant over or under billings.

(C) The establishment of rates for the reimbursement of independent research and development/bid and proposal costs shall be in accordance with the provisions of FAR Subpart 42.7, “Indirect Cost Rates,” FAR 31.205-18, "Independent Research and Development and Bid and Proposal Costs," and DEAR 931.205-18, "Independent Research and Development (IR&D) and Bid and Proposal (B&P) Costs."

(D) Paragraph (E) below, identifies the requirements and process to be followed by the Contractor in establishing indirect rates for contracts when DOE is the Cognizant Federal Agency (CFA) and when DOE is not the CFA. Specific instructions for submittal of indirect rate proposals to agencies other than DOE must be obtained from the agency involved.

(E) Requirements whether or not DOE is the CFA.

(1) Allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the applicable sections of FAR Part 30, Cost Accounting Standards, FAR Part 31 and DEAR 931, Contract Cost Principles and Procedures, in effect as of the date of this contract.

(2) Pending settlement of the final indirect expense rates for any period, the Contractor shall be reimbursed at billing rates approved by the CFA subject to acknowledgment by the cognizant DOE Contracting Officer. These billing rates are subject to appropriate adjustments when revised by mutual agreement or when the final indirect rates are settled, either by mutual agreement or unilateral

determination by the CFA subject to acknowledgment by the cognizant DOE Contracting Officer.

(3) The Contractor shall continue to use the latest DOE or CFA approved billing rate(s) which have been acknowledged by the cognizant DOE Contracting Officer until those rates are superseded by establishment of final rates or more current billing rates. In those cases where current billing rates have not been established, the latest approved final rates shall be used for invoicing, unless it is determined by the cognizant DOE Contracting Officer that use of said rates would not provide for an equitable recovery of indirect costs. In those instances, the cognizant DOE Contracting Officer will take whatever steps are necessary to establish rates that DOE considers to be reasonable for billing purposes.

H.46 DOE- H-2058 DESIGNATION AND CONSENT OF MAJOR OR CRITICAL SUBCONTRACTS (OCT 2014)

(A) In accordance with the clause at FAR 52.244-2(d), Subcontracts, the following subcontracts have been determined to be major or critical subcontracts:

[To be inserted at the time of contract award]

(B) In the event that the Contractor plans either to award or use a new major or critical subcontract or replace an existing, approved major or critical subcontract identified in paragraph (a) above, the Contractor shall provide advance notification to, and obtain consent from, the Contracting Officer, notwithstanding the consent requirements under any approved purchasing system or any other terms or conditions of the contract. Consent to these subcontracts is retained by the Contracting Officer and will not be delegated.

H.47 DOE-H-2059 PRESERVATION OF ANTIQUITIES, WILDLIFE AND LAND AREAS (OCT 2014)

(A) Federal Law provides for the protection of antiquities located on land owned or controlled by the Government. Antiquities include Indian graves or campsites, relics and artifacts. The Contractor shall control the movements of its personnel and its subcontractor's personnel at the job site to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. It shall be the duty of the Contractor to report to the Contracting Officer the existence of any antiquities so discovered.

(B) The Contractor shall also preserve all vegetation (including wetlands) except where such vegetation must be removed for survey or construction purposes. Any removal of vegetation shall be in accordance with the terms of applicable habitat mitigation plans and permits. Furthermore, all wildlife must be protected consistent with programs approved by the Contracting Officer.

(C) Except as required by or specifically provided for in other provisions of this contract, the Contractor shall not perform any excavations, earth borrow, preparation of borrow areas, or otherwise disturb the surface soils within the job site without the prior approval of DOE or its designee.

H.48 DOE-H-2061 CHANGE ORDER ACCOUNTING (OCT 2014)

The Contractor shall maintain change order accounting whenever the estimated cost of a change or series of related changes exceeds $100,000. The Contractor, for each change or series of related changes, shall maintain separate accounts, by job order or other suitable accounting procedure, of all incurred segregable, direct costs (less allocable credits) of work, both changed and not changed, allocable to the change. The Contractor shall maintain such accounts until the parties agree to an equitable adjustment for the changes ordered by the Contracting Officer or the matter is conclusively disposed of in accordance with the Disputes clause.

H.49 DOE-H-2062 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL - ALTERNATE I (OCT 2014)

(A) Pursuant to the clause at FAR 52.204-9, Personal Identity Verification of Contractor Personnel, the Contractor shall comply with applicable DOE regulations, policies and directives regarding identification, credential and access management for its personnel who have routine physical access to DOE-owned or -controlled sites or facilities or routine access to DOE information systems.

(B) The Contractor shall comply with the requirements of those DOE directives, or parts thereof, identified elsewhere in the contract pursuant to the clause at DEAR 970.5204-2, Laws, Regulations and DOE Directives.

H.50 DOE-H-2063 CONFIDENTIALITY OF INFORMATION (OCT 2014)

(A) Performance of work under this contract may result in the Contractor having access to confidential information via written or electronic documents, or by virtue of having access to DOE's electronic or other systems. Such confidential information includes personally identifiable information (such as social security account numbers) or proprietary business, technical, or financial information belonging to the Government or

other companies or organizations. The Contractor shall treat this information as confidential and agrees not to use this information for its own purposes, or to disclose the information to third parties, unless specifically authorized to do so in writing by the Contracting Officer.

(B) The restrictions set out in paragraph (a) above, however, do not apply to –

(1) Information which, at the time of receipt by the Contractor, is in the public domain;

(2) Information which, subsequent to receipt by the Contractor, becomes part of the public domain through no fault or action of the Contractor;

(3) Information which the Contractor can demonstrate was previously in its possession and was not acquired directly or indirectly as a result of access obtained by performing work under this contract;

(4) Information which the Contractor can demonstrate was received from a third party who did not require the Contractor to hold it in confidence; or

(5) Information which is subject to release under applicable law.

(C) The Contractor shall obtain a written agreement from each of its employees who are granted access to, or furnished with, confidential information, whereby the employee agrees that he or she will not discuss, divulge, or disclose any such information to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract. The agreement shall be in a form satisfactory to the Contracting Officer.

(D) Upon request of the Contracting Officer, the Contractor agrees to execute an agreement with any party which provides confidential information to the Contractor pursuant to this contract, or whose facilities the Contractor is given access to that restrict use and disclosure of confidential information obtained by the Contractor. A copy of the agreement, which shall include all material aspects of this clause, shall be provided to the Contracting Officer for approval.

(E) Upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing the confidential or proprietary information it receives under this contract and identify the source (company, companies or other organizations) of the information.

(F) The Contractor agrees to flow down this clause to all subcontracts issued under this contract.

DRAFT

H.51 DOE-H-2064 USE OF INFORMATION TECHNOLOGY EQUIPMENT, SOFTWARE, AND THIRD PARTY SERVICES - ALTERNATE II (OCT 2014)

(A) Acquisition of Information Technology. The Government may provide information technology equipment, existing computer software (as described in 48 CFR 27.405), and third party services for the Contractor's use in the performance of the contract; and the Contracting Officer may provide guidance to the Contractor regarding usage of such equipment, software, and third party services. The Contractor is not authorized to acquire (lease or purchase) information technology equipment, existing computer software, or third party services at the Government's direct expense without prior written approval of the Contracting Officer. Should the Contractor propose to acquire information technology equipment, existing computer software, or third party services, the Contractor shall provide to the Contracting Officer justification for the need, including a complete description of the equipment, software or third party service to be acquired, and a lease versus purchase analysis if appropriate.

(B) The Contractor shall immediately provide written notice to the Contracting Officer's Representative when an employee of the Contractor no longer requires access to the Government information technology systems.

(C) The Contractor shall not violate any software licensing agreement, or cause the Government to violate any licensing agreement.

(D) The Contractor agrees that its employees will not use, copy, disclose, modify, or reverse engineer existing computer software provided to it by the Government except as permitted by the license agreement or any other terms and conditions under which the software is made available to the Contractor.

(E) If at any time during the performance of this contract the Contractor has reason to believe that its utilization of Government furnished existing computer software may involve or result in a violation of the software licensing agreement, the Contractor shall promptly notify the Contracting Officer, in writing, of the pertinent facts and circumstances. Pending direction from the Contracting Officer, the Contractor shall continue performance of the work required under this contract without utilizing the software.

(F) The Contractor agrees to include the requirements of this clause in all subcontracts at any tier.

(G) The Contractor shall comply with the requirements of those DOE directives, or parts thereof, identified elsewhere in the contract pursuant to the clause at DEAR 970.5204-2, Laws, Regulations and DOE Directives.

DRAFT

H.52 DOE-H-2065 REPORTING OF FRAUD, WASTE, ABUSE, CORRUPTION, OR MISMANAGEMENT (OCT 2014)

The Contractor shall comply with the following:

(A) Notify employees annually of their duty to report allegations of fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement relating to DOE programs, operations, facilities, contracts, or information technology systems to an appropriate authority (e.g., OIG, other law enforcement, supervisor, employee concerns office, security officials). Examples of violations to be reported include, but are not limited to, allegations of false statements; false claims; bribery; kickbacks; fraud; DOE environment, safety, and health violations; theft; computer crimes; contractor mischarging; conflicts of interest; and conspiracy to commit any of these acts. Contractors must also ensure that their employees are aware that they may always report incidents or information directly to the Office of Inspector General (OIG).

(B) Display the OIG hotline telephone number in buildings and common areas such as cafeterias, public telephone areas, official bulletin boards, reception rooms, and building lobbies.

(C) Publish the OIG hotline telephone number in telephone books and newsletters under the Contractor's cognizance.

(D) Ensure that its employees report to the OIG within a reasonable period of time, but not later than 24 hours after discovery, all alleged violations of law, regulations, or policy, including incidents of fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement, that have been referred to Federal, State, or local law enforcement entities.

(E) Ensure that its employees report to the OIG any allegations of reprisals taken against employees who have reported to the OIG fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement.

(F) Ensure that its managers do not retaliate against DOE contractor employees who report fraud, waste, abuse, misuse, corruption, criminal acts, or mismanagement.

(G) Ensure that all their employees understand that they must –

(1) Comply with requests for interviews and briefings and must provide affidavits or sworn statements, if so requested by an employee of the OIG so designated to take affidavits or sworn statements;
(2) Not impede or hinder another employee's cooperation with the OIG; and
(3) Not take reprisals against DOE contractor employees who cooperate with or disclose information to the OIG or other lawful appropriate authority.

(H) Seek more specific guidance concerning reporting of fraud, waste, abuse, corruption, or mismanagement, and cooperation with the Inspector General, in DOE directives.

H.53 DOE-H-2066 SAFEGUARDS AND SECURITY PROGRAM – ALTERNATE I (OCT 2014)

Pursuant to the clause at DEAR 952.204-2, Security, the Contractor agrees to comply with all security regulations and contract requirements as incorporated into the contract.

The Contractor shall comply with the requirements of those DOE directives, or parts thereof, identified elsewhere in the contract pursuant to the clause at DEAR 970.5204-2, Laws, Regulations and DOE Directives.

H.54 DOE-H-2067 GOVERNMENT FURNISHED ON-SITE FACILITIES OR SERVICES (OCT 2014)

Pursuant to the Government Property clause of this contract, the Government shall, during the period of performance of this contract, furnish to the Contractor office space for approximately [TBP] contractor personnel. Additional office space may be provided by the Government as necessary for contract performance. The Contractor shall not acquire or lease any office space without the prior written approval of the Contracting Officer.

As necessary during contract performance, the Government shall provide to the Contractor, for that office space described in paragraph (a) above, office furnishings, supplies, utilities, telephone, janitorial and mail services, and access to Government-owned computer systems.

H.55 DOE-H-2068 CONFERENCE MANAGEMENT (OCT 2014) (DEVIATION)

The Contractor agrees that:

(A) The contractor shall ensure that contractor-sponsored conferences reflect the DOE commitment to fiscal responsibility, appropriate stewardship of taxpayer funds and support the mission of DOE as well as other sponsors of work. In addition, the contractor will ensure conferences do not include any activities that create the appearance of taxpayer funds being used in a questionable manner.

(B) For the purposes of this clause, "conference" is defined in Attachment 2 to the Deputy Secretary's memorandum of August 17, 2015, entitled "Updated Guidance on Conference-Related Activities and Spending" (http://energy.gov/management/downloads/acquisition-letter-no-al-2015-09).

(C) Contractor-sponsored conferences include those events that meet the conference definition and either or both of the following:

(1) The contractor provides funding to plan, promote, or implement an event, except in instances where a contractor:

i. covers participation costs in a conference for specified individuals (e.g. students, retirees, speakers, etc.) in a total amount not to exceed $10,000 (by individual contractor for a specific conference) or

ii. purchases goods or services from the conference planners (e.g., attendee registration fees, renting booth space).

(2) The contractor authorizes use of its official seal, or other seals/logos/ trademarks to promote a conference. Exceptions include non-M&O contractors who use their seal to promote a conference that is unrelated to their DOE contract(s) (e.g., if a DOE IT contractor were to host a general conference on cyber security).

(D) Attending a conference, giving a speech or serving as an honorary chairperson does not connote sponsorship.

(E) The Contractor will provide information on conferences they plan to sponsor with expected costs exceeding $100,000 in the Department's Conference Management Tool, including:

(1) Conference title, description, and date
(2) Location and venue
(3) Description of any unusual expenses (e.g., promotional items)
(4) Description of contracting procedures used (e.g., competition for space/support)
(5) Costs for space, food/beverages, audio visual, travel/per diem, registration costs, recovered costs (e.g., through exhibit fees)
(6) Number of attendees

(F) The contractor will not expend funds on the proposed contractor-sponsored conferences with expenditures estimated to exceed $100,000 until notified of approval by the contracting officer.

DRAFT

(G) For DOE-sponsored conferences, the contractor will not expend funds on the proposed conference until notified by the contracting officer.

(1) DOE-sponsored conferences include events that meet the definition of a conference and where the Department provides funding to plan, promote, or implement the conference and/or authorizes use of the official DOE seal, or other seals/logos/ trademarks to promote a conference. Exceptions include instances where DOE:

i. covers participation costs in a conference for specified individuals (e.g. students, retirees, speakers, etc.) in a total amount not to exceed $10,000 (by individual contractor for a specific conference) or

ii. purchases goods or services from the conference planners (e.g., attendee registration fees; renting booth space); or provide funding to the conference planners through Federal grants.

(2) Attending a conference, giving a speech, or serving as an honorary chairperson does not connote sponsorship.

(3) The contractor will provide cost and attendance information on their participation in all DOE-sponsored conference in the DOE Conference Management Tool.

(H) For non-contractor sponsored conferences, the contractor shall develop and implement a process to ensure costs related to conferences are allowable, allocable, reasonable, and further the mission of DOE. This process must at a minimum:

(1) Track all conference expenses.

(2) Require the Laboratory Director (or equivalent) or Chief Operating Officer approve a single conference with net costs to the contractor of $100,000 or greater.

(I) Contractors are not required to enter information on non-sponsored conferences in DOE'S Conference Management Tool.

Once funds have been expended on a non-sponsored conference, contractors may not authorize the use of their trademarks/logos for the conference, provide the conference planners with more than $10,000 for specified individuals to participate in the conference, or provide any other sponsorship funding for the conference. If a contractor does so, its expenditures for the conference may be deemed unallowable.

DRAFT

H.56 DOE-H-2069 PAYMENTS FOR DOMESTIC EXTENDED PERSONNEL ASSIGNMENTS (OCT 2014)

(A) Definition.

For purposes of this clause, "domestic extended personnel assignments" are defined as any assignment of contractor personnel to a domestic location different than their permanent duty station for a period expected to exceed 30 consecutive calendar days.

(B) For domestic extended personnel assignments, the Contractor shall be reimbursed the lesser of temporary relocation costs (Temporary Change of Station allowances as described in the Federal Travel Regulation at §302-3.400 - §302-3.429) or a reduced per diem (Extended Travel Duty) in accordance with the allowable cost provisions of the contract and the following:

(1) When a reduced per diem method (Extended Travel Duty) is utilized, the allowances are as follows:

i. Lodging. For the first 60 days and last 30 days of the assignment, the Government will reimburse costs associated with lodging at the lesser of actual cost or 100% of the Federal per diem rate at the assignment location. The intervening days lodging will be reimbursed at the lesser of actual cost or 55% of Federal per diem.

ii. Meals and Incidental Expenses. For the first 30 days and last 30 days of the assignment, the Government will reimburse costs associated with meals and incidental expenses (M&IE) at the lesser of actual cost or 100% of the Federal per diem rate at the assignment location. The intervening days M&IE will be reimbursed at the lesser of actual cost or 55% of Federal per diem.

(2) The Government will not reimburse any costs associated with per diem (except for en-route travel) unless the contractor employee maintains a residence at the permanent duty station.

(3) The Government will not reimburse costs associated with salary premiums, per diem, lodging, or other subsidies for contractor employees on domestic extended personnel assignments after 3 years (except for the reimbursements described above during the last 30 days of the assignment).

(4) If an assignment has breaks within a three year period, the calculation of the total length of the assignment will be as follows: If the break between assignments is less than 12 months, the Government will consider the assignment continuous for purposes of the three year clock. For instance, if a contractor employee completes

a 2 year assignment at location A and returns to his/her permanent duty station for 12 months, a subsequent new 2 year assignment back to location A will restart the 3 year clock. The assignments will be considered two separate 2 year assignments. On the other hand, if in the previous example the employee's return to his/her permanent duty station was 6 months, the Government would consider the second assignment to be a continuation of the first for purposes of the 3 year rule.

(5) The Government will not reimburse costs associated with salary premiums that exceed 10%.

(6) The Contractor shall include the substance of this clause in all subcontracts in which travel will be reimbursed at cost.

H.57 DOE-H-2070 KEY PERSONNEL_ALTERNATE I (OCT 2014) (DEVIATION)

(A) Pursuant to the clause at DEAR 952.215-70, Key Personnel, the key personnel for this contract are identified below:

NAME	TITLE
[Offeror Fill-In]	Program Manager
[Offeror Fill-In, if applicable]	[Offeror Fill-In, if applicable]
[Offeror Fill-In, if applicable]	[Offeror Fill-In, if applicable]

In addition to the requirement for the Contracting Officer's approval before removing, replacing, or diverting any of the listed key personnel, the Contracting Officer's approval is also required for any change to the position assignment of a current key person.

(B) Key personnel team requirements. The Contracting Officer and designated Contracting Officer's Representative(s) shall have direct access to the key personnel assigned to the contract. All key personnel shall be permanently assigned to their respective positions.

(C) Definitions. In addition to the definitions contained in the clause at DEAR 952.215-70, the following shall apply:

(1) Key personnel are considered "managerial personnel" under the clause at DEAR 952.231-71, Insurance – Litigation and Claims.

(D) Contract fee reductions for changes to key personnel.

(1) Notwithstanding the approval by the Contracting Officer, any time the Program Manager is removed, replaced, or diverted within three (3) years of being placed in the position, the earned fee under the contract may be permanently reduced by $500,000 for each and every such occurrence.

(2) Notwithstanding the approval by the Contracting Officer, any time a key person other than the Program Manager is removed, replaced, or diverted within three (3) years of being placed in the position, the earned fee may be permanently reduced by $250,000 for each and every such occurrence.

(3) The Contractor may request in writing that the Contracting Officer consider waiving all or part of a reduction in earned fee. Such written request shall include the Contractor's basis for the removal, replacement, or diversion of any key personnel. The Contracting Officer shall have the unilateral discretion to make the determination to waive all or part of the reduction in earned fee.

H.58 DOE-H-2071 DEPARTMENT OF ENERGY DIRECTIVES (OCT 2014)

(A) In performing work under this contract, the Contractor shall comply with the requirements of those Department of Energy (DOE) directives, or parts thereof listed in Section J, Attachment J-4.

(B) The Contracting Officer may, at any time, unilaterally amend this clause, or other clauses which incorporate DOE directives, in order to add, modify or delete specific requirements. Prior to revising the listing of directives, the Contracting Officer shall notify the Contractor in writing of the Department's intent to revise the list, and the Contractor shall be provided with the opportunity to assess the effect of the Contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule, and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the Contracting Officer's notice, the Contractor shall advise the Contracting Officer in writing of the potential impact of the Contractor's compliance with the revised list. Based on the information provided by the Contractor and any other information available, the Contracting Officer shall decide whether to revise the listing of directives and so advise the Contractor not later than 30 days prior to the effective date of the revision.

DRAFT

(C) Notwithstanding the process described in paragraph (b), the Contracting Officer may direct the Contractor to immediately begin compliance with the requirements of any directive.

(D) The Contractor and the Contracting Officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision pursuant to the clause of this contract at FAR 52.243-2, Changes – Cost Reimbursement (Aug 1987) – Alt II and III (Apr 1984).

(E) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor shall include this clause in all subcontracts to the extent necessary to ensure the Contractor's compliance with these requirements.

H.59 DOE-H-2072 USE OF GOVERNMENT VEHICLES BY CONTRACTOR EMPLOYEES (OCT 2014)

(A) The Government will provide Government-owned and/or –leased motor vehicles for the Contractor's use in performance of this contract in accordance with the clause FAR 52.245-1, Government Property and/or FAR 52.251-2, Interagency Fleet Management System (IFMS) Vehicles and Related Services.

(B) The Contractor shall ensure that its employees use and operate Government-owned and/or –leased motor vehicles in a responsible and safe manner to include the following requirements:

(1) Use vehicles only for official purposes and solely in the performance of the contract.
(2) Do not use vehicles for transportation between an employee's residence and place of employment unless authorized by the Contracting Officer.
(3) Comply with Federal, State and local laws and regulations for the operation of motor vehicles.
(4) Possess a valid State, District of Columbia, or commonwealth's operator license or permit for the type of vehicle to be operated.
(5) Operate vehicles in accordance with the operator's packet furnished with each vehicle.
(6) Use seat belts while operating or riding in a Government vehicle.
(7) Do not use tobacco products while operating or riding in a Government vehicle.
(8) Do not provide transportation to strangers or hitchhikers.
(9) Do not engage in "text messaging" while operating a Government vehicle, which includes those activities defined in the clause at FAR 52.233-18, Encouraging Contractor Policies to Ban Text Messaging While Driving.

DRAFT

(10) In the event of an accident, provide information as may be required by State, county or municipal authorities and as directed by the Contracting Officer.

(C) The Contractor shall -

(1) Establish and enforce suitable penalties against employees who use, or authorize the use of Government vehicles for unofficial purposes or for other than in the performance of the contract; and
(2) Pay any expenses or cost, without Government reimbursement, for using Government vehicles other than in the performance of the contract.

(D) The Contractor shall insert this clause in all subcontracts in which Government-owned and/or –leased vehicles are to be provided for use by subcontractor employees.

H.60 DOE-H-2075 PROHIBITION ON FUNDING FOR CERTAIN NONDISCLOSURE AGREEMENTS (OCT 2014)

The Contractor agrees that:

(A) No cost associated with implementation or enforcement of nondisclosure policies, forms or agreements shall be allowable under this contract if such policies, forms or agreements do not contain the following provisions: ‘‘These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.’’

(B) The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(C) Notwithstanding the provisions of paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement

shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

H.61 DOE-H-2076 LOBBYING RESTRICTIONS (OCT 2014)

The Contractor agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

IV OTHER CLAUSES

H.62 SELF-PERFORMED WORK

Within one year of contract award, unless otherwise approved in advance by the Contracting Officer, the percentage of work which may be self-performed by the large business(es) of the Contracting Team Arrangement [defined in FAR 9.601(1) as "Two or more companies form a partnership or joint venture to act as a potential prime contractor"] shall be limited collectively to not more than 70 percent (%) of the Total Estimated Contract Cost. If a small business is a member of the Contracting Team Arrangement, the small business portion is not part of the 70%. Unless otherwise approved in advance by the Contracting Officer, work to subcontractors selected after contract award shall be performed through competitive procurements, with an emphasis on fixed-price subcontracts. Subcontracts included in the Section H Clause entitled DOE-H-2058, Designation And Consent Of Major Or Critical Subcontracts, and all other subcontracts issued after contract award count toward the fulfillment of the subcontracting and small business (as applicable) goals in this Contract. The Contractor's subcontracted work shall be in compliance with the Contractor's approved Small Business Subcontracting Plan.

One of the key elements of this contract is to achieve continued improvement in overall costs for CLINs. This includes continuous optimization of costs. The subcontracting approach is to drive for development of discrete and meaningful scopes of work which can be competed after award of the Contract. The Contractor shall emphasize fixed-price subcontracts, with appropriate options as necessary. The use of cost-type, time-and-material, and labor hour subcontracts shall be minimized. Meaningful work is defined as discrete and distinct technical or programmatic scopes of work within the PWS that directly contribute to the accomplishment of the mission.

H.63 PARENT ORGANIZATION SUPPORT

The Contracting Officer may, at its unilateral discretion, authorize parent organization support, and the corresponding indirect or direct costs, if a direct-benefiting relationship to DOE is demonstrated. All parent organization support shall be authorized in advance by the Contracting Officer.

If parent organization support is proposed by the Contractor or required by DOE, the Contractor shall submit for DOE review and approval, an annual Parent Organization Support Plan (POSP). The Contractor shall submit its initial POSP 60 days prior to: (1) the end of the Contract Transition Period; or (2) the commencement date of parent organization support proposed by the Contractor or required by the Government. Any subsequent POSP shall be submitted 90 days prior to the start of each year of Contract performance.

H.64 EM-H-1001 QUALITY ASSURANCE FOR WORK AFFECTING NUCLEAR SAFETY

The Contractor shall implement a Department of Energy (DOE) approved Quality Assurance Program (QAP) in accordance with the current revisions of the Environmental Management (EM) QAP, EM-QA-001, prior to commencement of work affecting nuclear safety. The EM QAP provides the basis to achieve quality across the EM complex for all mission-related work while providing a consistent approach to Quality Assurance (QA).

EM requires that American Society of Mechanical Engineers (AMSE) NQA-1-2008, "Quality Assurance Requirements for Nuclear Facility Applications," and addenda through 2009 to be implemented as part of the Contractor's QA Program for work affecting nuclear safety. The required portions of NQA-1 to be implemented include: 1) Introduction; 2) Part I; and 3) Applicable portions of Part II. NQA-1 Parts III and IV are to be used as guidance for the Contractor's QAP and implementing procedures.

Contractors have three options for complying with this contract requirement:

(1) Develop and submit for DOE approval a new QAP;
(2) Adopt the prior Contractor's DOE-approved QAP; or,
(3) Modify the prior Contractor's DOE-approved QAP and submit it for DOE approval.

Development of a new QAP, or adoption of an existing or modified version of a QAP from a prior contractor, does not alter a contractor's legal obligation to comply with 10 CFR 830, other regulations affecting QA and DOE Order 414.1D.

The Contractor's QAP shall describe the overall implementation of the EM QA requirements and shall be applied to all work performed by the Contractor (e.g., research, design/engineering, construction, operation, budget, mission, safety, and health).

Specifically, the contractor's QAP shall also describe the supply chain for electronic subcomponents, require procurement of sub-components only from original equipment manufacturers or original equipment manufacturer authorized distributors, and require electronic subcomponents be procured from vendors with a documented successful history with the supplier. The Contractor shall develop and implement a comprehensive Issues Management System for the identification, assignment of significance category, and processing of nuclear safety-related issues identified within the Contractor's organization. The significance assigned to the issues shall be the basis for all actions taken by the Contractor in correcting the issue from initial causal analysis, reviews for reporting to DOE, through completion of Effectiveness Reviews, if required based on the seriousness of the issue.

The Contractor shall, at a minimum, annually review and update as appropriate, their QAP. The review and any changes shall be submitted to DOE for approval. Changes shall be approved before implementation by the Contractor.

H.65 ENVIRONMENTAL RESPONSIBILITY

(A) General. The Contractor is required to comply with all environmental laws, regulations, directives, orders, and procedures applicable to the work being performed under this contract. This includes, but is not limited to, compliance with applicable federal, state and local laws and regulations, permits, interagency agreements such as consent orders, consent decrees, and settlement agreements between the U. S. Department of Energy (DOE) and federal and state regulatory agencies.

(B) Environmental Permits. This paragraph addresses three permit scenarios, where the Contractor is the sole permittee; where the Contractor and DOE are joint permittees; and where multiple contractors are permittees.

(1) Contractor as Sole Permittee. To the extent permitted by law and subject to other applicable provisions of the contract that impose responsibilities on DOE, and provisions of law that impose responsibilities on DOE or third parties, the Contractor shall be responsible for obtaining in its own name, shall sign, and shall be solely responsible for compliance with all permits, authorizations and approvals from federal, state, and local regulatory agencies which are necessary for the performance of the work required of the Contractor under this contract. Under this permit scenario, the Contractor shall make no commitments or set precedents that are detrimental to DOE or other contractors. The Contractor shall coordinate its permitting activities with DOE, and with other contractors which may be affected by the permit or precedent established therein, prior to taking the permit action.

(2) DOE as Permittee, or Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE will sign permits as permittee, or as owner or as owner/operator with the Contractor as operator or co-operator, respectively. DOE will co-sign hazardous waste permit applications as

owner/operator where required by applicable law. In this scenario, the Contractor shall coordinate its actions with DOE. DOE is responsible for timely notification to the Contractor of any issues or changes in the regulatory environment that impact or may impact contractor implementation of any permit requirement. The Contractor shall be responsible for timely notification to DOE of any issues or changes in the regulatory environment that impact or may impact contractor implementation of any permit requirement. (3) Multiple Contractors as Permittees. Where appropriate, in situations where multiple contractors are operators or co-operators of operations requiring environmental permits, DOE will sign such permits as owner or co-operator and affected contractors shall sign as operators, or co-operators. In this scenario, the Contractor shall coordinate as appropriate with DOE and other contractors affected by the permit.

(C) Permit Applications. The Contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials necessary to be submitted to regulatory agencies for the purposes of obtaining a permit. Whenever reasonably possible all such materials shall be provided to DOE initially not later than 90 days prior to the date they are to be submitted to the regulatory agency. The Contractor shall normally provide final regulatory documents to DOE at least 30 days prior to the date of submittal to the regulatory agencies for DOE's final review and signature or concurrence. Special circumstances may require permits to be submitted in a shorter time frame. As soon as the Contractor is aware of any such special circumstance, the Contractor will provide notice to DOE as to the timeframe in which the documents will be submitted to DOE. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature, schedules for environmental permit applications or other regulatory materials covered by this Clause. Any such requests shall be submitted 30 days before such material would ordinarily be required to be provided to DOE. Any such schedule revision shall be effective only upon approval from the Contracting Officer.

(D) Copies, Technical Information. The Contractor shall provide DOE copies of all environmental permits, authorizations, and regulatory approvals issued to the Contractor by the regulatory agencies. DOE will, upon request, make available to the Contractor access to copies of all environmental permits, authorizations, and approvals issued by the regulatory agencies to DOE that the Contractor may need to comply with under applicable law. The Contractor and DOE will provide to each other copies of all documentation, such as, letters, reports, or other such materials transmitted either to or from regulatory agencies relating to the contract work. The Contractor and DOE shall maintain all necessary technical information required to support applications for revision of DOE or other Site contractor environmental permits when such applications or revisions are related to the Contractor's operations. Upon request, the Contractor or DOE shall provide to the other access to all necessary and available technical information required to support applications for or revisions to permits or permit applications. The Contractor shall provide to DOE a certification statement relating to such technical information in the form required by the following paragraph.

(E) Certifications. The Contractor shall provide a written certification statement attesting that information DOE is requested to sign was prepared in accordance with applicable requirements. The Contractor shall include the following certification statement in the submittal of such materials to DOE:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The certification statement shall be signed by the individual authorized to sign such certification statements submitted to federal or state regulatory agencies under the applicable regulatory program.

H.66 PARTNERING

In order to most effectively accomplish this Contract, the Government proposes to form a cohesive partnership with the Contractor. It is a way of doing business based upon trust, dedication to common goals, and an understanding and respect of each other's expectations and values. The process creates a teambuilding environment which fosters better communication and problem solving, and a mutual trust between the participants. These key elements create a climate in which issues can be raised, openly discussed, and jointly settled, without getting into an adversarial relationship. In this way, partnering is a mindset, and a way of doing business. It is an attitude toward working as a team, and achieving successful project execution. This endeavor seeks an environment that nurtures team building cooperation, and trust between the Government and the Contractor. The partnership strives to draw on the strengths of each organization in an effort to achieve a quality project done right the first time, within budget, and on schedule.

Participation in the partnership will be totally voluntary by the parties. Any cost associated with effectuating this partnership will be accounted for in accordance with the terms of this Contract.

H.67 NNSA/EM STRATEGIC SOURCING PARTNERSHIP

The contractor shall participate in the National Nuclear Security Administration (NNSA)/Environmental Management (EM) Strategic Sourcing Partnership. Under this partnership, EM contractors shall work with the NNSA/EM Supply Chain Management Center (SCMC) to yield an enterprise-wide, synergistic strategic sourcing solution that leverages NNSA and EM purchasing power to gain pricing, processing, and report efficiencies to reduce costs overall for the Government.

H.68 INTEGRATED WORK CONTROL SYSTEMS AND REPORTING REQUIREMENTS (April 2016)

A. Management of Work

The Contractor shall manage the planning, execution and reporting of the work described in Section C - Performance Work Statement using the Contract Performance Baseline (CPB). In the past, the Department of Energy (DOE) has used a separate approach to manage capital asset projects and operations activities. The operations activities were managed using Fiscal Year Work Plans. However, this has caused confusion and blurred the necessary focus on the CPB as the management tool for the planning, execution and reporting for the work in the contract. The focus on the CPB is also essential to ensure continued alignment is maintained between the contract and the performance of work.

The Initial Contract Performance Baseline shall reflect the Work Breakdown Structure (WBS), schedule and costs contained in the Contractor's proposal. The WBS reflects the format of the work established in the PWS. All of the work activities are expected to be managed with a consistent approach. The Government will designate capital asset projects, which shall have additional planning, execution and reporting requirements as outlined in DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*, dated November 29, 2010, and its associated Guides.

B. Preparation of Work Activities

As part of the planning and execution of the work described in Section C – Performance Work Statement, the Contractor shall incorporate the principles in Office of Management and Budget (OMB) A-131, Value Engineering, December 26, 2013; GAO Cost Estimating and Assessment Guide, GAO-09-3SP, March 2009; GAO Schedule Assessment Guide, GAO-16-89G, December 2015; and GAO Report on DOE AND NNSA Project Management, Analysis of Alternatives Could Be Improved by Incorporating Best Practices, GAO-15-37, December 2014.

OMB Circular A-131 provides guidance to support the sustained use of value engineering to reduce program and acquisition costs, improve performance, enhance quality, and foster the use of innovation. Value engineering is a structured technique commonly used in program management to optimize the overall value of the program. Often, creative strategies will be employed in an attempt to achieve the lowest life-cycle cost available for the program activities. The value engineering effort is a planned, detailed review/evaluation of program activities to identify alternative approaches to providing the needed assets.

The GAO Cost Estimating and Assessment Guide provides the purpose, scope, and

schedule of a cost estimate; a technical baseline description; a WBS; ground rules and assumptions; how to collect data; estimation methodologies; software cost estimating; sensitivity and risk analysis; validating a cost estimate; documenting and briefing results; updating estimates with actual costs; Earned Value Management System (EVMS); and the composition of a competent cost estimating team.

The GAO Schedule Assessment Guide develops the scheduling concepts introduced in the *Cost Estimating and Assessment Guide* and presents them as ten best practices associated with developing and maintaining a reliable, high-quality schedule.

The GAO report on Analysis of Alternatives identifies 24 best practices for analysis of alternatives – a process that is a key first step in the development of work activities, whether waste processing, soil and water remediation, facility demolition, facility operations or infrastructure improvements. The process entails identifying, analyzing, and selecting a preferred alternative to best meet the mission need by comparing the operational effectiveness, costs, and risks of potential alternatives. These best practices include, among other things, defining functional requirements based on mission need, conducting the Analysis of Alternatives without a predetermined solution, including the status-quo alternative, and conducting an independent review of the entire Analysis of Alternatives process.

C. **Project Control System**

The Contractor shall establish, maintain and use an EVMS that accurately records and reports the contract performance against the requirements of the Contract and accurately reflects the total estimated cost of the Contract exclusive of fee for the work scope and period of performance being authorized. The EVMS shall be consistent with DOE and EM policies and guidance for work activities.

The EVMS Description and its implementation shall comply with the American National Standards Institute (ANSI)/Electronic Industries Alliance (EIA)-748 (current) EVMS Standard.

The requirements of this clause are in addition to the applicable requirements of DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*. The CPB shall include and reflect the DOE 413.3B requirements for capital asset projects.

D. **Baseline Development and Performance Reporting**

The Contractor's planning and performance reporting processes should provide DOE with the supporting data for an independent assessment of the Contractor's work execution plan, basis of cost and schedule estimates for work packages and planning packages, measurement basis of progress reporting and change control process. For the Contract, the estimated cost plus the estimated fee equals the estimated price. The CPB represents the cost, schedule, and scope as it relates to the total estimated cost of

the Contract exclusive of fee for the work scope and performance period being authorized.

The CPB cost and schedule allocations must be documented at a WBS level where work activities, their costs and schedule, are planned and controlled by the Contractor to demonstrate that the Contractor understands the complexity of work, and has put in place the planning and management processes and qualified personnel to execute the work in a safe and efficient manner.

The CPB will be reviewed by DOE and must be approved by the Contracting Officer (CO). Once the CPB is approved, the Contractor shall follow the approved change control process.

1. **Initial Contract Performance Baseline Submittal**

   a. Within the Contract Transition Period, the Contractor shall develop and submit for CO approval:

      (i) The Initial CPB for the Contract performance period that reflects the Contractor's scope, cost and schedule as contained in the Contractor's proposal.
      (ii) The Contractor shall submit a Project Controls System Description (PCSD) that documents the existence of the project controls system specified by the Contract.
      (iii) If the Contractor chooses to develop a CPB designating Management Reserve, the Contractor must restructure the proposal and Basis of Estimates to aggregate the uncertainties and risks into Management Reserve. Thus, the Performance Measurement Baseline plus the Management Reserve will equal the CPB. If the Contractor chooses not to designate Management Reserve, the Performance Measurement Baseline will equal the CPB.
      (iv) During the Transition Period, the DOE and the Contractor will strive to true-up the Contract based on the conditions at the time of award to include the following:
         (1) Reconcile contract scope and conditions with changes since the final RFP was issued, such as: labor rate revisions, environmental regulatory milestone changes, adjusted pension payments, funding profile, etc.
         (2) Reconcile the cleanup progress the previous contractor actually made by the end of the contract period compared with what was assumed in the final RFP
         (3) Definitize "DOE-provided" costs
         (4) Reconcile "material differences" proposed by the Contractor
         (5) Consider DOE proposed changes which may have been developed since the final RFP was issued

(v) The Initial CPB covers approximately the first 15 months of performance starting from the Notice to Proceed (including the 90-dayTransition period).
(vi) The Contracting Officer will notify the Contractor of the exact timeframe to be used for the Initial CPB and may desire to align the Initial CPB with the fiscal year.

b. If Contract modifications are negotiated within the Contract Transition Period, the Contractor shall incorporate these approved modifications into the Initial CPB. Subsequent modifications negotiated after the Contract Transition Period shall be incorporated in the Initial CPB through contract modification and baseline change approvals.

c. The Contractor shall immediately begin performance reporting against the Initial CPB as submitted to the Contracting Officer. If the Contractor is required to have a certified EVMS compliant with ANSI-EIA 748 (current version), the Initial CPB must have the necessary data elements to support EVMS certification requirements.

2. **Final Contract Performance Baseline (CPB) Submittal**

a. During the first six months after the Contract Transition Period, in addition to performing and reporting progress against the Initial CPB, the Contractor shall develop and submit for approval by the Contracting Officer the Final CPB which details plans for the entire contract scope through the end of the period of performance.
b. The Final CPB shall incorporate the Contractor's WBS for the entire contract scope. The WBS represents the lower level of detail from the PWS (Section C).
c. The Final CPB represents the scope, cost and schedule through the end of the period of performance as it relates to the total estimated cost of the Contract exclusive of fee.
d. The Contractor shall provide monthly status reports regarding the CPB document preparation progress to the CO.
e. The Final CPB submittal shall include both a hard copy and electronic files.

3. **CPB and Contract Alignment**

It is critically important that the CPB remain aligned with the Contract, including any modifications, throughout the Contract period of performance. The Government will withhold all subjective award fee payments until the Contractor has obtained the CO's approval of the Final CPB. Similarly, if at any time during the contract performance there is a significant mis-alignment of the CPB with the Contract, all subjective award fee payments will be withheld until alignment is re-established.

4. **Contract Baseline Management**

   a. The approved CPB is the source document for reporting scope, cost and schedule performance. The CPB and changes to the CPB (initial and final CPB) at all levels shall be managed using formal documented procedures as approved by the CO. The CPB does not replace or modify the Contract terms and conditions and does not create DOE obligations.
   b. The CPB must remain aligned with the Contract. For the cost element, alignment means that the total cost of all the CPB scope must equal total estimated cost of the Contract exclusive of fee; for the schedule element, alignment means that the end date of final CPB schedule is the same as the contract end date; and for the scope alignment means that the WBS supporting the final CPB includes all scope in the contract.
   c. If a change to the Contract scope is required and is in accordance with the Changes clause, the Contractor shall submit the CPB change proposal concurrently with a request for Contract change proposal to the CO within 60 days. If the CO issues a unilateral or bilateral Contract modification, the Contractor shall submit a revised CPB in accordance with direction accompanying the Contract modification.

5. **Reviews**

   a. After receipt of the Contractor's Final CPB, DOE will complete its review to determine whether it Initial CPB, the Government will determine if it meets the terms and conditions of the Contract. In cases where it doesn't meet the requirements, the Contractor shall submit a corrective action plan to the CO for DOE approval within 15 days of receipt of DOE's comments. All corrective actions shall be completed in the time-frames established in the approved corrective action plan.

   b. Certification Review of Contractor's EVMS:

      (i) Due to the requirement for a certified EVMS, the Contractor shall begin earned value reporting no later than the end of the Contract Transition Period. The Contractor shall initiate discussions with the CO within 15 days after NTP to schedule an EVMS certification review and, when three months of earned value data is available (and no later than six months after the Contract Transition Period), the Contractor shall have in place all documentation necessary to obtain EVMS certification in conformance with ANSI/EIA-748 standards. The Contractor shall provide the CO, or designated representative(s), access to any and all information and documents supporting the Contractor's project control and reporting system.

DRAFT

(ii) If this Contract contains Capital Asset Projects, the EVMS shall be evaluated for compliance with the ANSI standard and certified in accordance with DOE Order 413.3B, *Program and Project Management for the Acquisition of Capital Assets*

6. **Performance Reporting**

The Contractor shall submit the Contractor's Monthly Performance Report to the CO with a copy to the Office of Project Assessment in the Office of Environmental Management at ContractorsMPR@hq.doe.gov not later than the eighth business day prior to the end of each calendar month. The report shall provide the prior month's performance for each WBS activity and an update of the performance to date. For the monthly reporting requirements, the following shall be provided.

a. Contract Performance Reports in the following seven formats unless specified otherwise. For instructions on how to fill the forms refer to DI-MGMT-81861(DOE Version June 2015) (item A.3.f.).

(i) Format 1, DD Form 2734/1, March 05, Work Breakdown Structure
(ii) Format 2, DD Form 2734/2, March 05, Organizational Categories
(iii) Format 3, DD Form 2734/3, March 05, Baseline
(iv) Format 4, DD Form 2734/4, March 05, Staffing; and
(v) Format 5, Form Number: N/A , Explanations and Problem Analysis
(vi) Format 6, Form Number: N/A, Integrated Master Schedule
(vii) Format 7, Form Number: N/A, Electronic History and Forecast File

b. Explanations as outlined in the American National Standards Institute, Earned Value Management System Guidelines ANSI/EIA-748-C, dated June 2007 (or most current version).

c. Primavera Project Manager version P6 (or most current version) for scheduling activities to ensure standardization

d. Data Item Description, DI-MGMT-81468,

e. Contract Funds Status Report (CFSR) or equivalent

f. Over Target Baseline and Over Target Schedule Guide, OUSD AT&L (PARCA), December 5, 2012

g. For Capital Asset Projects (if applicable):
(i) DOE Order 413.3B, Program and Project Management for the Acquisition of Capital Assets, dated November 29, 2010 and its associated Guides

(ii) Contractor Project Performance (CPP) Upload Requirements for Project Assessment and Reporting System (PARS II), Version 1.7, dated June 25, 2011 (or most current version)

(1) Interconnection Security Agreement for Project Assessment and Reporting System (PARS II), Version 1.6, dated June 30, 2010 (or most current version).

(2) PARS II New Contractor Information for Interconnection Security Agreement, V1.0, November 18, 2010 (or most current version).

H.69 UNALLOWABLE COSTS

The following types of costs are examples of costs specific to this contract that may be determined to be unallowable in accordance with FAR subpart 31.2. The examples are not all inclusive.

(a) Unreasonable costs resulting from Contractor re-work (e.g., cost associated with disposal and retrieval of unacceptable material in any landfill).

(b) Costs associated with correcting poor quality document preparation, including costs associated with delays.

DRAFT