

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

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## **PART I – THE SCHEDULE**

### **SECTION H**

#### **SPECIAL CONTRACT REQUIREMENTS**

##### **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.

##### **H.2 DOE-H-2014 Contractor Acceptance of Notices 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. 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.3 DOE-H-2018 Privacy Act System of Records (OCT 2014)**

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."

System No. [Offeror to fill-in]  
Title [Offeror to fill-in]

##### **H.4 DOE-H-2029 Position Qualifications (OCT 2014)**

The Contractor shall provide personnel for the performance of this contract, whether employees of the Contractor or employees of a subcontractor, which satisfy as a minimum the applicable labor category qualifications, both education and experience, set forth in the "Position

Qualifications" in Section J, Attachment J-1, except as the Contracting Officer may otherwise authorize.

#### **H.5 DOE-H-2031 Level-of-Effort (OCT 2014)**

(a) This level-of-effort contract requires the Contractor to provide a specified number of Direct-Productive-Labor-Hours (DPLH) in performing the work required under the contract. The total number of DPLH required is [insert total number of DPLH required to fulfill the level-of-effort under the contract].

(b) The DPLH are those actual hours expended by the Contractor's personnel, or any subcontractor personnel, performing work under this contract that are charged as direct labor consistent with the respective Contractor's or subcontractor's established accounting policies and procedures and the clause at FAR 52.216-7, Allowable Cost and Payment. While a subcontractor's established accounting policies and procedures may differ from that of the Contractor (including a subcontractor's billing requirements with the Contractor), the actual DPLH expended by the subcontractor count toward the total DPLH in paragraph (a). The DPLH does not include sick leave, vacation leave, holiday leave, military leave, or any type of administrative leave.

(c) The Contractor shall not exceed the total DPLH specified in paragraph (a), unless the Contracting Officer increases or decreases the total DPLH required in paragraph (a) in order to meet work requirements within the scope of the contract. Once the total DPLH specified in paragraph (a) is expended or the term of the contract has expired, the Contractor's obligations under the contract are fulfilled, even though the specified work may not have been completed.

(d) Notwithstanding the requirements of this clause for the Contractor to provide the level-of effort specified in paragraph (a), the terms of this clause do not supersede the requirements of the clause at FAR 52.232-20, Limitation of Cost, or FAR 232-22, Limitation of Funds, as applicable.

#### **H.6 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.

#### **H.7 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.

#### **H.8 DOE-H-2035 Organizational Conflict Of Interest Management Plan (OCT 2014)**

Within 15 calendar days after the effective date of the contract, 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.9 DOE-H-2036 Obligations as to Protected Energy Policy Act (EPACT) Information (OCT 2014)**

- (a) The provisions of the Energy Policy Act of 1992, P.L. 102-486 (42 U.S.C. §13541(d)) require the protection from public disclosure, for a period of up to five years from development, of information resulting from the award or performance of this contract that would be trade secret or privileged or confidential commercial or financial information if the information that is privileged or confidential had been obtained from a non-Federal party for a period of up to 5 years after the submittal of the information. This protection from public disclosure includes exemption from disclosure pursuant to 5 U.S.C. §552(b) (The Freedom of Information Act).
- (b) The cover page of any document subject to and protectable under the provisions of P.L. 102-486 (42 U.S.C. §13541(d)), shall be marked with the following legend:

PROTECTED EPACT INFORMATION

THIS DOCUMENT CONTAINS PROTECTED INFORMATION WHICH WAS SUBMITTED  
ON [To be filled-in at award] UNDER AGREEMENT NO. DE-[To be filled-in at award] AND  
IS NOT TO BE FURTHER DISCLOSED FOR A PERIOD OF UP TO 5 YEARS AFTER

**DEVELOPMENT OF THE INFORMATION EXCEPT AS EXPRESSLY PROVIDED FOR IN THE SUBJECT AWARD.**

In addition, each page of the document shall be marked with the words "PROTECTED EPACT INFORMATION."

(c) The Government agrees not to further disclose such protected information for a period of up to 5 years from the date it was submitted, except (1) to be provided to other DOE facilities with the same protection in place, (2) as necessary to perform this agreement or (3) as otherwise mutually agreed to in advance.

(d) The obligations in (c) above shall end when any such protected information becomes publicly known without fault of the Government, comes into the Government's possession without breach by the Government of its obligations or is independently developed by someone who did not have access to the Protected Agreement Information.

(e) Notwithstanding any other provision of this contract, the following technical data first produced under this contract, as a minimum, shall be delivered to the DOE with unlimited rights:

[Offeror to fill-in and submit with proposal]

**H.10 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 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 60 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 (2) 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-2, 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.11 DOE-H-2047 Federal Holidays And Other Closures (OCT 2014)**

(a) Designated Federal holidays. Federal employees observe the following Federal holidays:

- (1) New Year's Day
- (2) Birthday of Martin Luther King, Jr.
- (3) Washington's Birthday
- (4) Memorial Day
- (5) Independence Day
- (6) Labor Day
- (7) Columbus Day
- (8) Veterans Day
- (9) Thanksgiving Day
- (10) Christmas Day

Generally, Federal holidays that fall on Saturday are observed on the preceding Friday; and holidays that fall on Sunday are observed on the following Monday. The exact calendar day and/or date on which any of the listed holidays are observed may change year to year.

(b) Other Federal Holidays. In addition to the holidays specified above in paragraph (a), Federal employees may observe other holidays designated by Federal Statute, Executive Order, or Presidential Proclamation as a one-time, day-off such as Inauguration Day for the President of the United States.

(c) Unscheduled closures. Occasionally, an individual Federally-owned or -controlled site or facility will be closed or have an early closure on a normal work day for other reasons such as inclement weather or facility conditions. If an unplanned closure occurs, the Contractor will be notified as soon as possible after the determination that the Federally-owned or -controlled site or facility will be closed.

(d) The Contractor shall provide the services required by the contract at Federally-owned or – controlled sites or facilities on all regularly scheduled Federal work days and other days as may be required by the contract. The Contractor shall not provide the services required by the contract on those days, or portions thereof, specified in paragraphs (a), (b) and (c), except as required under paragraph (e). Accordingly, the Contractor's employees, whose regular duty station in performance of this contract is a Federally-owned or controlled site or facility, shall not be granted access to the facility during those times specified in paragraphs (a), (b) and (c), unless required by paragraph (e) below.

(e) There may be times that the Contractor is required to perform the services required by the contract on a Federal holiday or other closure times. In the event that such performance is required, the Contracting Officer will notify the Contractor, in writing, and specify the extent to which performance of the contract will be required. The Contractor shall provide sufficient personnel to perform the contractually-required work on those days, as directed by the Contracting Officer.

(f) In accordance with the payment and other applicable clauses of the contract, the Government will not pay the Contractor for its employees' regularly scheduled work hours not actually provided directly in performance of the contract due to an unscheduled closure as contemplated in paragraphs (b) and (c) above.

#### **H.12 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.13 DOE-H-2049 Insurance Requirements (OCT 2014)**

(a) In accordance with the clause FAR 52.228-7, Insurance – Liability to Third Persons, 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-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 incorporated into the contract. The Contractor shall develop, implement, and maintain a written Worker Safety and Health Program (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.15 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.16 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:

[Offeror to fill-in and submit with proposal-insert the names of major or critical subcontracts subject to the operation of this clause]

(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.17 DOE-H- 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.18 DOE-H-2062 Personal Identity Verification Of Contractor Personnel (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 Section I, I.99, DEAR 970.5204-2, Laws Regulations and DOE Directives.

#### **H.19 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.

## **H.20 DOE-H-2064 Use of Information Technology Equipment, Software, and Third Party Services (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.

## **H.21 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.22 DOE-H-2070 Key Personnel (OCT 2014)**

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

Key Personnel Position Title	Key Personnel Name
Principal Project Manager	Offeror to fill-in
Senior Project Manager – Decommissioning Plan	Offeror to fill-in
Senior Project Manager – Supplemental Environmental Impact Statement	Offeror to fill-in
Subject Matter Expert- Decommissioning Plan	Offeror to fill-in

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) The term “reasonably in advance” is defined as 14 calendar days.
- (2) Key personnel are considered “managerial personnel” under the clause at FAR 52.228-7 INSURANCE--LIABILITY TO THIRD PERSONS.

**H.23 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 (insert attachment number) or identified elsewhere in the contract.

DOE O 243.1B Admin Chg 1	Records Management Program
DOE O 414.1D Admin Chg 1	Quality Assurance
American Society of Mechanical Engineers (ASME) NQA-1-2008, and addenda through 2009	Quality Assurance Requirements for Nuclear Facility Applications
EM-QA-001	Environmental Management (EM) Quality Assurance Plan
10 CFR 830	Nuclear Safety Management Subpart A - Quality Assurance Requirements
DOE O 442.1.A	Department of Energy Employee Concerns Program  <i>Clarification for DOE O 442.1.A</i> In support of the effective implementation of DOE O 442.1.A - Department of Energy (DOE) Employee Concerns Program (ECP), contractors are required to—  <ul style="list-style-type: none"> <li>• assist DOE in the resolution of employee concerns in a manner that protects the health and safety of both employees and the public and ensures effective and efficient operation of DOE-related activities under their jurisdiction;</li> <li>• ensure that contractor and subcontractor employees are advised that they have the right and responsibility to report concerns relating to the environment, safety, health, or management of DOE-related activities; and</li> <li>• cooperate with assessments used to verify that they have acted to minimize, correct, or prevent recurrence of the situation that precipitated a valid concern.</li> </ul>
DOE O 471.3 Admin Chg 1	Identifying and Protecting Official Use Only Information
DOE M 471.3-1 Admin Chg 1	Manual for Identifying and Protecting Official Use Only Information

(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.

(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 52.243-3 Changes - Time-and-Materials or Labor Hour. .

(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.24 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.

#### **H.25 WORK PLAN PROCEDURES**

(a) Only the CO may approve the contractor's work plans, providing specific authorization or direction to perform work within the scope of the contract and as specified in the schedule.

(b) The COR will issue a request for a work plan from the Contractor which will contain a functional description of the work identifying the objectives or results desired from the contemplated work plan, including any specific work products.

(c) Within 10 calendar days after receipt of the COR's request, the Contractor shall submit a work plan conforming to the request which includes the technical description of the work, proposed schedule, labor categories, Direct Productive Labor Hours (DPLH), and other direct costs (if applicable).

(d) After review and any necessary discussions, the COR will forward the work plan to the CO for approval.

(e) The Contractor shall submit monthly work plan progress reports. At a minimum, the reports shall contain the following information:

1. Work Plan number.
2. Total work plan prices.
3. Cost and hours incurred to date for each work plan.
4. Costs and hours estimated to complete each work plan.
5. Significant issues/problems associated with each work plan.
6. Status of the schedule for each work plan.
7. Cost summary of the status of all work plans issued under the contract.

(f) Should any revision become necessary to the labor categories and hours for a PWS work element, the Contractor shall promptly submit to the CO and COR a revised work plan for that PWS work element with explanatory notes. Revised work plans submitted by the Contractor are subject to the review and approval of the CO.

## **H.26 QUALITY ASSURANCE SYSTEM**

The Contractor shall implement a DOE-approved Quality Assurance Program (QAP) (see ATTACHMENT J-2: LIST OF CONTRACT DELIVERABLES/SUBMITTALS) in accordance with the current revision of the EM Quality Assurance Program, 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 (ASME) NQA-1-2008, *Quality Assurance Requirements for Nuclear Facility Applications*, and addenda through 2009 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: Introduction, Part I, and as 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 quality assurance (QA) and DOE Order 414.1D, Quality Assurance.

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 and non-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.27 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 agreed to by both parties during Contract performance. The U.S. Army Corps of Engineers has championed partnering and their guidelines will be utilized in organizing partnering meetings and establishing a partnering agreement.