

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.

(End of Clause)

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.

(End of Clause)

H.3 DOE-H-2018 PRIVACY ACT SYSTEMS OF RECORDS (OCT 2014) (REVISED)

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

DOE Privacy Act System No.	DOE Privacy Act System Description
DOE-3	Employee Concerns Program Records
DOE-10	Energy Employees Occupational Illness Compensation Program Act Files
DOE-11	Emergency Operations Notification Call List
DOE-14	Report of Compensation
DOE-28	General Training Records

DOE Privacy Act System No.	DOE Privacy Act System Description
DOE-33	Personnel Medical Records (Present and Former DOE Employees and Contractor Employees)
DOE-34	Employee Assistance Program (EAP) Records
DOE-38	Occupational and Industrial Accident Records
DOE-41	Legal Files (Claims, Litigation, Criminal Violations, Patents, and Others)
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-63	Personal Identity Verification (PIV) Files
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 CO as soon as the discrepancy is discovered. The Contractor shall monitor the identified systems and notify the CO 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, the Contractor must review the list annually and notify the CO, 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 CO, in consultation with the local Privacy Act Officer 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 entitled, *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.

FAR 52.224-1 entitled, *Privacy Act Notification*, and FAR 52.224-2 entitled, *Privacy Act*, 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 this clause identifying system of record DOE-33, *Personnel Medical Records*, along with language on records turnover when employees terminate. Subcontracts must also contain scope requirements necessary to

ensure DOE and contractor compliance with applicable records management and Privacy Act requirements.

(End of Clause)

H.4 DOE-H-2021 WORK STOPPAGE AND SHUTDOWN AUTHORIZATION (OCT 2014) (REVISED)

(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. 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) Reserved.

(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.

(End of Clause)

H.5 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.

(End of Clause)

H.6 DOE-H-2041 SUSTAINABLE ACQUISITION UNDER DOE SERVICE CONTRACTS (OCT 2014) (REVISED)

(a) Pursuant to Executive Order 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, 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 Water Sense Labeled Products).

(b) The Contractor should become familiar with these information resources:

- (1) Recycled Products are described at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- (2) Biobased Products are described at <https://www.biopreferred.gov/BioPreferred/>.
- (3) Energy efficient products are described at <https://www.energystar.gov/products> for Energy Star products.
- (4) FEMP designated products are described at <https://www.energy.gov/eere/femp/energy-efficient-products-and-energy-saving-technologies>.
- (5) Environmentally Preferable Computers are described at <https://www.epeat.net>.
- (6) Non-Ozone Depleting Alternative Products are described at <https://www.epa.gov/ozone-layer-protection>.
- (7) Water efficient plumbing fixtures are described at <https://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.

(End of Clause)

H.7 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).

(End of Clause)

H.8 DOE-H-2049 INSURANCE REQUIREMENTS (OCT 2014)

(a) In accordance with the clause FAR 52.228-5, Insurance - Work on a Government Installation, 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.

(End of Clause)

H.9 DOE-H-2052 REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF THE OFFEROR (OCT 2014) (REVISED)

The Contractor's Representations, Certifications and Other Statements made in response to this Solicitation No. 89303320REM000081 are hereby incorporated into the contract by reference:

[Offeror Fill-in, e.g., RCRA Part B Permit, supporting environmental analyses, etc.]

(End of Clause)

H.10 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.

(End of Clause)

H.11 DOE-H-2057 DEPARTMENT OF LABOR WAGE DETERMINATIONS (OCT 2014)

The Contractor's performance under this contract shall comply with the requirements of the U.S. Department of Labor Wage Determination(s) located in Section J, Attachments J-3 and J-4 [**To be determined based on location of facility**] and the clause at FAR 52.222-42, Statement of Equivalent Rates for Federal Hires.

(End of Clause)

H.12 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.

(End of Clause)

H.13 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.
- (4) Seek more specific guidance concerning reporting of fraud, waste, abuse, corruption, or mismanagement, and cooperation with the Inspector General, in DOE directives.

(End of Clause)

H.14 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 identified in Section C – Performance Work Statement and listed in Section J, Attachment J-1, *List of Applicable DOE Directives and Implementing Documents*.
- (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 52.243-1, Changes – Fixed-Price.
- (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.

(End of Clause)

H.15 LIMITATION OF GOVERNMENT'S OBLIGATION

(a) This contract's CLINs 0001, 1001, 2001, 3001, 4001, 0002, 1002, 2002, 3002, and 4002 contain Federal Acquisition Regulation fixed prices and contract terms and conditions as set forth in the contract, with the exceptions that all such CLINs may be incrementally funded; and if a CLIN is incrementally funded as set forth in the contract, in the event of termination before it is fully funded the Government's maximum liability for the CLIN will be the lower of the amount of funds allotted to the CLIN or the amount payable to the Contractor per the Termination for Convenience (Fixed-Price) clause of this contract. For each CLIN there is

- (1) a fixed price;
- (2) a specified scope of work that corresponds to the fixed price;
- (3) an anticipated funding schedule that corresponds to the fixed price and the specified scope of work (the parties contemplate that the Government will allot some funds upon execution of the contract);
- (4) a Government maximum obligation to the Contractor equal to the funds allotted to the contract for the CLIN;
- (5) if the Government incrementally allots funds, both a fixed price for the services the allotted funds cover and a maximum Government obligation, including any termination obligations, to the Contractor equal to the allotted funds; and
- (6) an obligation that the Government will pay the Contractor only for the work the Contractor performed: for which funds were allotted; and based only on the fixed price for the services the allotted funds covered (established when the funds were allotted) and the portion of the services performed, not the costs the Contractor may actually incur.

(b) For each CLIN

- (1) the Government's maximum obligation, including any termination obligations and obligations under change orders, equitable adjustments, or unilateral or bilateral contract modifications, at any time is always less than or equal to the total amount of funds allotted by the Government to the contract for the CLIN and the total amount of funds allotted by the Government to the contract for the CLIN is the fixed price of the work for which the funds are allotted;
- (2) the Contractor explicitly agrees the fixed price in the contract reflects:
 - (i) any additional complexities, challenges, and risks (including all risks, costs or otherwise, associated with any potential termination for convenience, or other risks as articulated in this clause) to which the Contractor is subject due to the incremental funding arrangement established in this clause; and
 - (ii) the specific risk that in the event of termination of an incrementally funded CLIN before the CLIN is fully funded, the Contractor could receive less than the amount the Termination for Convenience (Fixed-Price) clause of this contract would usually permit, that is, the Government is only obligated to provide to the contractor the lower of the

amount of the allotted funds or the amount as determined under the Termination for Convenience (Fixed-Price) clause of this contract;

(3) the Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government, which is the price of the services the allotted funds cover, equals the total amount allotted to the contract for the services;

(4) if additional funds become available and the Government still has a need for the services in the Contract, the Government will allot funds periodically to the CLIN, the Contractor will continue performance and will provide a specified and fixed amount of work for the additional funds allotted, and the Government will pay the Contractor based on the price of the fixed amount work. The Government will not pay the Contractor based on the costs the Contractor incurs in performing the work; and

(5) the Contractor agrees to provide the specified and fixed amount of work for the fixed price identified in the Contract's Section B, Supplies or services and prices/costs, and in accordance with the delivery schedule identified in the contract's Section F, Deliveries or performance, provided the Government provides the funding per or earlier than the Planned Funding Schedule in paragraph (n) of this clause. At any time, the cumulative amount of funds allotted is the fixed price for the cumulative fixed amount of work identified with the funds.

(c) For each CLIN

(1) The fixed price (of both the entire CLIN and of the current cumulative amount of funds allotted to the CLIN at any time during contract performance) is not subject to any adjustment on the basis of the Contractor's cost experience;

(2) The contract places the maximum risk and full responsibility on the Contractor for all costs and resulting profit or loss; and

(3) If the Government meets the entire Planned Funding Schedule,

(i) the cumulative amount of funds allotted will equal the CLIN's fixed price and

(ii) the Contractor shall provide the entire scope of work the Contract requires for the CLIN.

(d) The fixed price for each CLIN is listed in Section B of this contract.

(e) The Planned Funding Schedule for each CLIN is in paragraph (n) of this clause. The sum of the planned funding for each CLIN equals the fixed price of the CLIN.

(f) The Actual Funding Schedule for each CLIN is in paragraph (o) of this clause. It specifies the actual amount of funds allotted and presently available for payment by the Government separately for CLINs 0001, 1001, 2001, 3001, 4001, 0002, 1002, 2002, 3002, and 4002 and the specific work to be performed for the funds allotted.

(1) The Contractor may submit an invoice under a CLIN only after the Government has allotted funds to the CLIN and the Contractor has provided services in accordance with the terms and conditions of the Contract. The Contractor may submit an invoice for only the lower of the two preceding amounts, that is, the lower of

(i) the amount of allotted funds for the specified work (which is the amount of the fixed price of the specified work) or

(ii) the amount equal to the portion of the fixed price for the specified work the Contractor has earned by providing a portion of the fixed work.

(g) If during the course of this contract the Government is allotting funds to a CLIN per or earlier than the Planned Funding Schedule, this contract to that point will be considered a simple fixed-price contract for that CLIN regardless of the rate at which the Contractor is, or is not, earning amounts payable, and

(1) The Government's and the Contractor's obligations under the contract for the CLIN-with the exception that the Government's obligation for the CLIN is limited to the total amount of funds allotted by the Government to the CLIN and similarly the Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted-will be as if the CLIN were both fixed price and fully funded at time of contract execution, that is, the Contractor agrees that: it will perform the work of the contract for that CLIN; and neither the fixed-price for the CLIN nor any other term or condition of the contract will be affected due to the CLIN's being incrementally funded.

(i) The Contractor agrees, for example, if the Government allots funds to a CLIN per or earlier than all of the funding dates in the Planned Funding Schedule for the CLIN, the Government has met all of its obligations just as if the CLIN were fully funded as of the time of contract execution and the Contractor retains all of its obligations as if the CLIN were fully funded as of the time of contract execution, while at the same time the Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted to the contract; consequently, if the Contractor earns amounts payable at any time in performing work for the CLIN that exceed the total amount of funds allotted by the Government to the contract for the CLIN.

A. It (not the Government) will be liable for those excess amounts payable.

B. It will remain liable for its obligations under every term or condition of the contract and

C. If it fulfills all of its obligations for that CLIN and the Government allots funds to the CLIN equal to the CLIN's fixed price, the Government will pay it the fixed price for the CLIN and no more.

(ii) The Contractor also agrees, for example, if the Government allots funds to a CLIN by the first funding date in the Planned Funding Schedule, the Government has met all of its obligations up to that point in the contract as if the CLIN were fully funded (that is, as if progress payments based on cost had been agreed to and had been made, or milestone payments had agreed to and been made, etc.) and the Contractor retains all of its

obligations up to that point (such as meeting delivery schedules, maintaining quality, etc.) as if the CLIN were fully funded; consequently, if the Government subsequently terminates the CLIN it will pay the Contractor the lower of the following two amounts: the amount allotted by the Government to the CLIN; or the amount payable per the Termination for Convenience (Fixed-Price) clause of this contract.

(h) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the total amount payable by the Government, which is the portion of the price of the services the allotted funds cover that the Contractor has earned, for the CLIN in the next 60 days, when added to all amounts payable previously earned, will exceed 75 percent of the total amount allotted to the CLIN by the Government.

(1) The notification is for the Government's planning purposes only and does not change any obligation of either the Government or the Contractor.

(2) The Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted to the CLIN.

(3) The Government may require the Contractor to continue performance of that CLIN for as long as the Government allots funds for that CLIN sufficient to cover the amount payable for that CLIN.

(i) If the Government does not allot funds to a CLIN per or earlier than its Planned Funding Schedule, the Contractor may be entitled to an equitable adjustment and

(1) the Government's maximum obligation, including any termination obligation, to reimburse the Contractor remains limited to the total amount of funds allotted by the Government to the contract for that CLIN;

(2) the Contractor is not authorized to continue work beyond the point at which the total amount payable by the Government equals the total amount allotted to the contract;

(3) if the Government subsequently terminates the contract or the CLIN, it will pay the Contractor the lower of the following two amounts: the total amount of funds allotted by the Government to the contract for the CLIN; or the amount payable per the Termination for Convenience (Fixed-Price) clause of this contract.

(j) Except as required by either other provisions of this contract specifically citing and stated to be an exception to this clause, or by, among other things, terminations, change orders, equitable adjustments, or unilateral or bilateral contract modifications specifically citing and stated to be an exception to this clause, for each CLIN-

(1) The Government is not obligated to reimburse the Contractor in excess of the total amount allotted by the Government to this contract for the CLIN; and

(2) The Contractor is not obligated to continue performance under this contract related to the CLIN in excess of the amount allotted to the contract (which is also both the maximum amount payable and the price of the services the allotted funds cover) by the Government until the

Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to the CLIN.

(k) No notice, communication, or representation in any form, including, among other things, change orders, equitable adjustments, or unilateral or bilateral contract modifications, other than that specified in this clause, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract for a CLIN, which will remain at all times the Government's maximum liability for a CLIN. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any amounts payable earned for a CLIN in excess of the total amount allotted by the Government to this contract for a CLIN.

(l) Change orders, equitable adjustments, unilateral or bilateral contract modifications, or similar actions shall not be considered increases in the Government's maximum liability or authorizations to the Contractor to exceed the amount allotted by the Government for a CLIN unless they contain a statement increasing the amount allotted.

(m) Nothing in this clause shall affect the right of the Government to terminate this contract for convenience or default.

(n) Planned Funding Schedule:

CLIN 0001 (Lease – Year One)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 1001 (Lease – Option Year Two)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 2001 (Lease – Option Year Three)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 3001 (Lease – Option Year Four)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 4001 (Lease – Option Year Five)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 0002 (Facility Management – Year One)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 1002 (Facility Management – Option Year Two)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 2002 (Facility Management – Option Year Three)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 3002 (Facility Management – Option Year Four)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 4002 (Facility Management – Option Year Five)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

(o) Actual Funding Schedule:

CLIN 0001 (Lease – Year One)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 1001 (Lease – Option Year Two)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 2001 (Lease – Option Year Three)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 3001 (Lease – Option Year Four)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 4001 (Lease – Option Year Five)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 0002 (Facility Management – Year One)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 1002 (Facility Management – Option Year Two)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 2002 (Facility Management – Option Year Three)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 3002 (Facility Management – Option Year Four)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

CLIN 4002 (Facility Management – Option Year Five)

	Funds To	Work To Be	Cumulative	Cumulative Work
<u>Date</u>	<u>Be Allotted</u>	<u>Accomplished</u>	<u>Funds To Be Allotted</u>	<u>To Be Accomplished</u>

(End of Clause)

H.16 DOE-H-2076 LOBBYING RESTRICTIONS (NOV 2018)

In accordance with 18 U.S.C. § 1913, 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. This restriction is in addition to those prescribed elsewhere in statute and regulation.

(End of Clause)

H.17 DOE-H-2077 DEPARTMENT OF ENERGY TRAINING INSTITUTE – OCCUPATIONAL HEALTH, SAFETY, AND EMERGENCY RESPONSE (JAN 2017)

(a) The Contractor shall utilize the Department of Energy (DOE) Training Institute (DTI) resources to the maximum extent practical for occupational, health, safety, and emergency response training. The Contractor, as applicable, shall use DTI by utilizing the reciprocity program, instructor-certification, mobile training teams, and use of common core curriculum as applicable.

(1) Reciprocity: The DTI Training Reciprocity program evaluates and certifies training programs and core content against DOE requirements, establishing a basis for consistent training. Reciprocity reduces redundant training to improve employee mobility and project mobilization, saving time and resources. Reference DOE Policy 364.1.

(2) Common Core Curriculum: Courses in the Common Core Training Program are developed and maintained by DTI instructional designers and subject matter experts. These courses are available enterprise-wide for delivery by DTI-certified instructors. Common Core Training eliminates duplicative course development and maintenance activities while providing maximum flexibility for delivery.

(3) Instructor-Certification: The DTI Instructor Certification Program recognizes subject matter experts and experienced trainers who are qualified to deliver common core courses across the DOE enterprise. The Contractor selects instructors to be certified by DTI.

(4) Mobile Training Teams: Mobile Training Teams are available to DOE locations who do not maintain the capability to deliver a specific course. Courses are delivered by certified DTI instructors who are subject matter experts in the topical area.

(b) DTI course offerings, information on becoming a certified DTI trainer, enrollment, and contact information can be found on <https://ntc.doe.gov/>.

(c) DTI training shall be considered common core fundamental material. Contractors are expected to provide gap training needed to address site specifics identified through their approved Integrated Safety Management (ISM) Program and associated program plans required by existing DOE requirements. Gap training shall not repeat fundamental training core content.

(d) DTI training is funded by DOE with no cost to the Contractors.

(e) The Contractor shall first consider DTI for all applicable training needs and only obtain such training outside of DTI after written approval of the Contracting Officer (CO) following the Contractor's written request containing the following:

(1) rationale describing in detail why DTI provided material, including contractor supplemented site specific material, is insufficient,

(2) rationale supporting the increased cost, scope, and schedule of maintaining a local course and capability for training instruction proposed in place of DTI training, and

(3) rationale as to why the loss of standardization DOE is seeking by using alternative materials is of value to the DOE. Prior to requesting CO approval, the contractor shall complete the course request form at <https://ntc.doe.gov/>. DTI will respond within 10 working days on the availability of DTI course materials that might provide the course or assist in the development of the Contractor course.

(f) This contract clause shall be flowed down to all subcontractors, and the Contractor is responsible for compliance by its employees and subcontractors.

(End of Clause)

H.18 DOE-H-2080 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (APR 2018)

(a) Program implementation. The Contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.

(b) Remedies. In addition to any other remedies available to the Government, the Contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the Contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.

(c) Subcontracts.

(1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707, unless the Contracting Officer agrees to a different date.

(2) The DOE Prime Contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE Prime Contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.

(3) The Contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

(End of Clause)

H.19 LABOR STANDARDS

(a) The CO 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), the Service Contract Labor Standards statute (formerly known as the Service Contract Act of 1965), 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 CO 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-1321, *Employee Rights under the Davis-Bacon Act*, and/or WH-1313, *Employee Rights 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 CO.

(d) In addition to any other requirements in the Contract, Contractor shall as soon as possible notify the CO 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 Code of Federal Regulations (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 CO.

(e) The Contractor shall prepare and submit, to the CO, the Office of Management and Budget Control Number 1910-5165, *Semi-Annual Davis-Bacon Enforcement Report*, by April 21 and October 21 of each year.

(End of Clause)