

Section H – Special Contract Requirements

TABLE OF CONTENTS

H.1	DOE-H-2013 Consecutive Numbering (Oct 2014)	4
	CONTRACTOR HUMAN RESOURCE MANAGEMENT (CHRM) CLAUSES	4
H.2	DOE-H-2002 No Third Party Beneficiaries (Oct 2014)	4
H.3	Definitions	4
H.4	Workforce Transition and Employee Hiring Preferences Including Through Period of Performance	4
H.5	DOE-H-2001 Employee Compensation: Pay and Benefits (Jun 2022)	6
H.6	Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits	17
H.7	Workforce Transition and Benefits Transition: Plans and Timeframes	19
H.8	DOE-H-2004 Post Contract Responsibilities for Pension and Other Benefit Plans (Oct 2014)	24
H.9	DOE-H-2028 Labor Relations (Oct 2014) (Revised)	25
H.10	Workforce Restructuring	27
H.11	Labor Standards	29
H.12	DOE-H-2003 Worker’s Compensation Insurance (Oct 2014)	30
H.13	DOE-H-2073 Risk Management and Insurance Programs (Dec 2014) (Revised)	30
H.14	Overtime Control Reporting	33
	DOE CORPORATE CLAUSES OTHER THAN CHRM	33
H.15	DOE-H-2014 Contractor Acceptance of Notices of Violations or Alleged Violations, Fines, and Penalties (Oct 2014) (Revised)	33
H.16	DOE-H-2016 Performance Guarantee Agreement (Oct 2014)	34
H.17	DOE-H-2017 Responsible Corporate Official and Corporate Board of Directors (Oct 2014) (Revised)	34
H.18	DOE-H-2018 Privacy Act Systems of Records (Oct 2014) (Revised)	36
H.19	DOE-H-2019 Disposition of Intellectual Property – Failure to Complete Contract (Jul 2018)	37
H.20	DOE-H-2021 Work Stoppage and Shutdown Authorization (Oct 2014) (Revised) ..	38
H.21	DOE-H-2033 Alternative Dispute Resolution (Oct 2014)	38
H.22	DOE-H-2034 Contractor Interface with Other Contractors and/or Government Employees (Oct 2014) (Revised)	39

H.23 DOE-H-2035 Organizational Conflict of Interest Management Plan (Oct 2014) (Revised)	40
H.24 DOE-H-2041 Sustainable Acquisition Under DOE Service Contracts (Oct 2014) ...	40
H.25 DOE-H-2043 Assignment and Transfer of Prime Contracts and Subcontracts (Oct 2014) (Revised)	41
H.26 DOE-H-2046 Diversity Program (Oct 2014)	42
H.27 DOE-H-2052 Representations, Certifications, and Other Statements of the Offeror (Oct 2014).....	42
H.28 DOE-H-2053 Worker Safety and Health Program in accordance with 10 CFR 851 (Oct 2014).....	43
H.29 DOE-H-2058 Designation and Consent of Teaming Subcontracts – Alternate I (Oct 2014) (Revised)	43
H.30 DOE-H-2059 Preservation of Antiquities, Wildlife, and Land Areas (Oct 2014).....	44
H.31 DOE-H-2061 Change Order Accounting (Oct 2014)	44
H.32 DOE-H-2063 Confidentiality of Information (Feb 2022) (Revised).....	45
H.33 DOE-H-2064 Use of Information Technology Equipment, Software, and Third Party Services – Alternate I (Oct 2014)	46
H.34 DOE-H-2067 Government Furnished On-site Facilities or Services (Apr 2018).....	46
H.35 DOE-H-2068 Conference Management (Mar 2023).....	47
H.36 DOE-H-2070 Key Personnel – Alternate I (Oct 2014) (Revised).....	48
H.37 DOE-H-2071 Department of Energy Directives (Oct 2014).....	49
H.38 DOE-H-2072 Use of Government Vehicles by Contractor Employees (Oct 2014)....	50
H.39 DOE-H-2075 Prohibition on Funding for Certain Nondisclosure Agreements (Oct 2014)	51
H.40 DOE-H-2076 Lobbying Restrictions (Nov 2018).....	51
H.41 DOE-H-2080 Workplace Substance Abuse Programs at DOE Sites (Apr 2018)	52
H.42 DOE-H-2083 Safety Culture (Feb 2022).....	52
OTHER CLAUSES.....	54
H.43 Task Ordering Procedure (Revised) (Applies to IDIQ CLINs only).....	54
H.44 Parent Organization Support	56
H.45 Subcontractor Timekeeping Records Signature Requirement.....	56
H.46 Laws, Regulations, and DOE Directives	57
H.47 National Nuclear Security Administration / Environmental Management Strategic Sourcing Partnership.....	57

H.48	Legal Management.....	57
H.49	Emergency Response	58
H.50	Department of Energy National Training Center	58
H.51	Management of Accountable Property	59
H.52	Information Technology and Cyber Security Requirements	59
H.53	Organizational Conflict of Interest - Affiliates.....	67
H.54	PPPO Site Services and Interface Requirements Matrix.....	67
H.55	Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA).....	69
H.56	Environmental Compliance	71
H.57	Partnering.....	73
H.58	Real Property Asset Management	74
H.58.1	General Requirements.....	74
H.58.2	Acquisition of Real Property Assets	77
H.58.3	Disposition of Real Property Assets.....	79
H.58.4	Sustainment of Real Property Assets	82
H.58.5	Maintenance of Real Property Assets	83
H.58.6	Sustainability of Real Property Assets	85
H.59	Regional Purchasing Program.....	86

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.

CONTRACTOR HUMAN RESOURCE MANAGEMENT (CHRM) CLAUSES

H.2 DOE-H-2002 No Third Party Beneficiaries (Oct 2014)

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

H.3 Definitions

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

- (a) “Contract Award Date” means the date the contract is signed by the Contracting Officer, noted in Block 28 of the SF 33, *Solicitation, Offer and Award*.
- (b) “Contract Transition Period” means the transition period as defined in Section C of this Contract.
- (c) “Contractor” means “the Offeror” as specified in Block 15A of Standard Form 33, Section A entitled “Solicitation, Offer and Award” of the Contract.
- (d) “Incumbent Contractor” means Swift and Staley, Inc. (SSI) performing work under Contract No. DE-EM0003733.
- (e) “Incumbent Employees” means employees who are regular employees of the Incumbent Contractor as of the effective date of the Notice to Proceed.
- (f) “Non-Incumbent Employees” means new hires, i.e. employees other than Incumbent Employees hired by the Contractor after the effective date of the Notice to Proceed.
- (g) “Notice to Proceed (NTP)” means the authorization issued by the Contracting Officer for the Contractor to start incoming transition performance of this Contract as referenced in CHRM clauses H.4 through H.7.
- (h) “UCOR” means United Cleanup Oak Ridge, LLC under Contract No. 89303322DEM000067 and is the current lead sponsor and administrator of the Oak Ridge Reservation Cleanup Contract (ORRCC) Pension Plan for Grandfathered Employees (MEPP).

H.4 Workforce Transition and Employee Hiring Preferences Including Through Period of Performance

The Contractor and its subcontractors shall maintain and develop trained and qualified personnel to perform the work scope included in Section C, consistent with applicable law, and the terms of this Contract, including the paragraphs set forth below. Means of maintaining and developing a

trained and qualified workforce may include, but are not limited to, the utilization of apprentices, interns, veterans, and summer hires.

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

- (a) The Contractor shall provide, during the periods of performance of the Transition and all subsequent Task Orders issued under the contract, preferences in hiring for vacancies at the Paducah Gaseous Diffusion Plant site (“Paducah site”) for non-managerial positions (i.e., all those below the first line of supervision) in accordance with the hiring preferences in paragraphs (1) and (2) below, in descending order of priority, and in accordance with applicable law, any applicable collective bargaining agreement(s), and any applicable site seniority lists as provided to the Contractor by the Contracting Officer, as set forth below.
 - (1) The Contractor shall provide Incumbent Employees the hiring preferences in paragraphs (i) and (ii) in descending order of priority:
 - (i) A preference in hiring for vacancies in non-managerial positions that are substantially equivalent to the position each respective Incumbent Employee held on the effective date of the Transition NTP.
 - (ii) A preference in hiring for vacancies in non-managerial positions for Incumbent Employees not hired into a substantially equivalent position in (1), but who meet the qualifications for another position.
 - (2) The Contractor shall give a preference in hiring to individuals who, as former employees of the Incumbent Contractor(s) are entitled to recall rights consistent with any applicable collective bargaining agreement(s) at the Paducah site.
- (b) The Contractor shall provide, throughout the periods of performance of the Transition and all subsequent Task Orders issued under the contract, preferences in hiring for vacancies at the Paducah site for non-managerial positions (i.e., all those below the first line of supervision), in accordance with the hiring preferences in paragraphs (1) – (4) below, in descending order of priority.
 - (1) Consistent with any applicable collective bargaining agreement(s) and site seniority lists at the Paducah site, the Contractor shall give a preference in hiring to individuals who are former employees of the Incumbent Contractor(s), and who are entitled to recall rights.
 - (2) The Contractor shall give a preference in hiring to individuals set forth below in paragraphs (i) and (ii), in descending order of priority, who are eligible for the hiring preference contained in the clause in Section I of this Contract entitled, *DEAR 952.226-74, Displaced Employee Hiring Preference*, consistent with the provisions of any applicable Workforce Restructuring Plan and Departmental guidance on workforce restructuring, as amended from time to time, regarding the preferential hiring of former employees:
 - (i) Former employees of the Incumbent Contractor(s) or any other DOE contractor [or teaming subcontractor of a DOE contractor] at the Paducah site.
 - (ii) Former employees of other DOE contractor(s) or subcontractor(s) at a DOE defense nuclear facility eligible for the hiring preference.

- (3) The Contractor shall give a preference in hiring to individuals who A) were formerly employed by the Incumbent Contractor(s) at the Paducah site; B) were involuntarily separated (other than for cause) from their employment at the Paducah site who are not precluded from seeking employment at the Paducah site by the terms of employee waivers or releases of claims they executed, absent repayment of severance consistent with the terms of those agreements; and C) are qualified for the position or who are not qualified for a particular position, but who agree to become qualified on their own and can become qualified by the date set by the Contractor for commencement of active employment on any Task Orders issued under this Contract.
- (4) The Contractor shall give a preference in hiring to individuals who A) have separated from employment at the Paducah site for any reason other than for cause; B) are not precluded from seeking employment with a DOE or National Nuclear Security Administration (NNSA) contractor by the terms of employee waivers or releases of claims they executed, absent repayment of severance consistent with the terms of those agreements; and C) are qualified for a particular position.

H.5 DOE-H-2001 Employee Compensation: Pay and Benefits (Jun 2022)

(a) Contractor Employee Compensation Plan

The Contractor shall submit, for Contracting Officer approval, by close of the Transition period, a Contractor Employee Compensation Plan (to be submitted during Contract transition only) demonstrating how the Contractor will comply with the compensation requirements of this Contract (see Section J, Attachment J-4, *Summary of Contract Deliverables*). The Contractor Employee Compensation Plan shall describe the Contractor's policies regarding compensation, pensions and other benefits, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.

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

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

(b) Total Compensation System

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

(c) Reports and Information

The Contractor shall provide the Contracting Officer with the following reports and information with respect to pay and benefits provided under this Contract (see Section J, Attachment J-4, *Summary of Contract Deliverables*):

- (1) An annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved amounts, and planned distribution of funds for the following year.
- (2) A list of the top five most highly compensated executives as defined in FAR 31.205-6(p)(14)(i) and their total cash compensation at the time of Transition NTP and at the time of any subsequent change to their total cash compensation no later than March 1st of each year.

Section 702 of the Bipartisan Budget Act of 2013 (BBA; Pub. L. 113-67, December 26, 2013) establishes a cap on the reimbursement of compensation costs for Contractor employees, adjusted annually to reflect the change in the Employment Cost Index for all workers as calculated by the Bureau of Labor Statistics (BLS).

- (3) An annual Compensation and Benefits Report to be submitted no later than March 15th of each year or date prescribed in iBenefits.

(d) Pay and Benefit Programs

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

- (1) Incumbent Employees are as defined in Section H.3, entitled *Definitions*.
 - (i) Pay. Subject to the Workforce Transition clause, the Contractor shall provide equivalent base pay to Incumbent Employees as compared to pay provided by the Incumbent Contractor(s) for at least the first year of the term of the Contract.
 - (ii) Pension and Other Benefits. The Contractor shall provide a total package of benefits to Incumbent Employees comparable to that provided by the Incumbent

Contractor(s). Comparability of the total benefit package shall be determined by the Contracting Officer at his/her sole discretion.

- (iii) ORRCC MEPP Eligible Employees shall remain in their existing pension plans (or comparable successor plans if continuation of the existing plans is not practicable), pursuant to pension plan eligibility requirements and applicable law.”]

(2) Non-ORRCC MEPP and Non-Incumbent Employees are as defined in Section H.3 entitled, *Definitions*. All Non-Incumbent Employees shall receive a total pay and benefits package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees and in accordance with Contract requirements.

(3) Cash Compensation

- (i) The Contractor shall submit the below information, as applicable, to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract (see Section J, Attachment J-4, *Summary of Contract Deliverables*):

- A. Any proposed major compensation program design changes prior to implementation.
- B. Variable pay programs/incentives. If not already authorized under a Compensation Plan, a justification shall be provided with proposed costs and impacts to budget, if any.
- C. In the absence of Departmental policy to the contrary (e.g., Secretarial pay freeze) a Contractor that meets the criteria, as set forth below, is not required to submit a Compensation Increase Plan (CIP) request to the Contracting Officer for an advance determination of cost allowability for a Merit Increase fund or Promotion/Adjustment fund:
 - 1. The Merit Increase and Promotion/Adjustment funds do not exceed the mean percent increase included in the annual Departmental guidance providing the WorldatWork Salary Budget Survey’s salary increase projected for the CIP year.
 - 2. The budget used for both Merit Increase funds and Promotion/ Adjustment funds shall be based on the payroll for the end of the previous CIP year.
 - 3. Salary structure adjustments do not exceed the mean WorldatWork structure adjustments projected for the CIP year and communicated through the annual Department CIP guidance.
 - 4. Please note: No later than the first day of the CIP cycle, Contractors must provide notification to the Contracting Officer of planned increases and position to market data by mutually agreed-upon employment categories. No presumption of allowability will exist for employee job classes that exceed market position.
- D. If a Contractor does not meet the criteria included in (C) above, a CIP must be submitted to the Contracting Officer for an advance determination of cost

allowability, unless the Contracting Officer, in accordance with the subparagraph (n) obtains an audit of the Contractor's compensation and benefits system and of its incurred costs from either DCAA, or an independent public accounting firm under the DOE contract for such services. Otherwise, the CIP should include the following components and data:

1. Comparison of average pay to market average pay.
 2. Information regarding surveys used for comparison.
 3. Aging factors used for escalating survey data and supporting information.
 4. Projection of escalation in the market and supporting information.
 5. Information to support proposed structure adjustments, if any.
 6. Analysis to support special adjustments.
 7. Funding requests for each pay structure to include breakouts of merit, promotions, variable pay, special adjustments, and structure movement. (a) The proposed plan totals shall be expressed as a percentage of the payroll for the end of the previous CIP year. (b) All pay actions granted under the CIP are fully charged when they occur regardless of the time of year in which the action transpires and whether the employee terminates before year end. (c) Specific payroll groups (e.g., exempt, nonexempt) for which CIP amounts are intended shall be defined by mutual agreement between the Contractor and the Contracting Officer. (d) The Contracting Officer may adjust the CIP amount after approval based on major changes in factors that significantly affect the plan amount (for example, in the event of a major reduction in force or significant ramp-up).
 8. A discussion of the impact of budget and business constraints on the CIP amount.
 9. Comparison of pay to relevant factors other than market average pay.
- E. After receiving DOE CIP approval or if criteria in (d)(3)(i)(C) are met, contractors may make minor shifts of up to 10 percent of approved CIP funds by employment category (e.g., Scientist/Engineer, Admin, Exempt, Non-Exempt) without obtaining DOE approval.
- F. Individual compensation actions for the top contractor official (e.g., laboratory director/plant manager or equivalent) and Key Personnel not included in the CIP. For those Key Personnel included in the CIP, DOE will approve salaries upon the initial Contract award and when key personnel are replaced during the life of the Contract. DOE will have access to all individual salary reimbursements. This access is provided for transparency; DOE will not approve individual salary actions (except as previously stated).
- (ii) The Contracting Officer's approval of individual compensation actions will be required only for the top Contractor official (e.g., laboratory director/plant manager or equivalent) and Key Personnel as stated in (d)(3)(i)(E) above. The base salary reimbursement level for the top contractor official establishes the maximum

allowable base salary reimbursement under the Contract. Unusual circumstances may require a deviation for an individual on a case-by-case basis. Any such deviations must be approved by the Contracting Officer.

- (iii) Severance Pay is not payable to an employee under this Contract if the employee:
 - A. Voluntarily separates, resigns, or retires from employment,
 - B. Is offered employment with a successor/replacement contractor,
 - C. Is offered employment with a parent or affiliated company, or
 - D. Is discharged for cause.
 - (iv) Service Credit for purposes of determining severance pay does not include any period of prior service for which severance pay has been previously paid through a DOE cost-reimbursement contract or Task Order.
- (e) Pension and Other Benefit Programs
- (1) No presumption of allowability will exist when the Contractor implements a new benefit plan or makes changes to existing benefit plans and the Contractor has not provided the Contracting Officer the opportunity to review the allowability of the changes prior to implementation. The Contractor shall submit for prior approval benefit changes that result in increases to the Department’s long-term pension and other actuarial liabilities that are reported in the Department’s financial statement and increases in other benefits such as paid time off, insurance and employer contributions for defined contribution pension plans. Examples of benefits changes that increase the Department’s long-term liabilities include defined benefit pension plan changes and postretirement benefits other than pensions. Any changes made by the Contractor shall be in accordance with and pursuant to the terms and conditions of the Contract. Advance notification, rather than approval, is required for changes that do not increase costs and are not contrary to Departmental policy or written instruction.
 - (2) The “Employee Benefits Value Study” and an “Employee Benefits Cost Survey Comparison” as described below are methodologies designed to assist the Contracting Officer in contract administration and oversight. As an alternative to Employee Benefits Cost Survey Comparison, the Contracting Officer may obtain an audit of the Contractor’s compensation and benefits system and of its incurred costs from either DCAA, or from DOE’s independent public accounting firm (under contract with DOE), in accordance with subparagraph (n) to assist in determining whether costs are reasonable, allowable, allocable, and in accordance with the terms of the Contract.
 - (3) Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs (i) (except for defined benefit plans that are closed to new entrants) and (ii) below. The studies shall be used by the Contractor in calculating the cost of benefits under existing benefit plans. An Employee Benefits Value (BenVal) Study Method using no less than 15 comparator organizations and an Employee Benefits Cost Survey Comparison method shall be used in this evaluation to establish an appropriate comparison method. In addition, the Contractor shall submit updated studies to the Contracting Officer for approval prior to the adoption of any change to a pension or

other benefit plan which increases costs (see Section J, Attachment J-4, *Summary of Contract Deliverables*).

- (i) The Ben-Val, every two years for each benefit tier (e.g., group of employees receiving a benefit package based on date of hire), which is an actuarial study of the relative value of the benefits programs offered by the Contractor to Employees measured against the relative value of benefit programs offered by the Contracting Officer approved comparator companies. To the extent that the value studies do not address post-retirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the post-retirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources and,
 - (ii) An Employee Benefits Cost Study Comparison, annually for each benefit tier that analyzes the Contractor's employee benefits cost for employees as a percent of payroll and compares it with the cost as a percent of payroll, including geographic factor adjustments, reported by the U.S. Department of Labor's Bureau of Labor Statistics or other Contracting Officer approved broad based national survey. Alternatively in accordance with subparagraph (n) the Contracting Officer may obtain an audit of the Contractor's compensation and benefits system and of its incurred costs from either DCAA or from DOE's independent public accounting firm (under contract with DOE), and not require the submission of an Employee Benefits Cost Study.
- (4) When the net benefit value exceeds the comparator group by more than the percentage threshold established by the Head of the Contracting Activity, the Contractor shall submit a corrective action plan to the Contracting Officer for approval, when and if requested in writing by the Contracting Officer (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
 - (5) When the benefit costs as a percent of payroll exceeds the comparator group by more than the percentage threshold established by the Head of the Contracting Activity, the Contractor shall submit a corrective action plan to the Contracting Officer for approval, when and if requested in writing by the Contracting Officer.
 - (6) Within two years, or longer period as agreed to between the Contractor and the Contracting Officer, of the Contracting Officer acceptance of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and the cost as a percent of payroll in accordance with its corrective action plan.
 - (7) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.
 - (8) Cost reimbursement for post-retirement benefits (PRBs) other than pensions is contingent on DOE approved service eligibility requirements for PRBs that shall be based on a minimum period of continuous employment service of not less than 5 years under a DOE cost reimbursement contract(s) immediately prior to retirement. Unless required by Federal or State law, advance funding of PRBs is not allowable.
 - (9) Each Contractor sponsoring a defined benefit pension plan and/or post-retirement benefit plan will participate in the annual plan management process which includes written

responses to a questionnaire regarding plan management, providing forecasted estimates of future reimbursements in connection with the plan(s) and participating in a conference call to discuss the contractor submission (see (g)(6) below for Pension Management Plan requirements).

- (10) Each Contractor will respond to quarterly data calls issued through iBenefits, or its successor system.
- (f) Establishment and Maintenance of Pension Plans for which DOE Reimburses Costs
- (1) Employees working for the Contractor shall only accrue credit for service under this Contract after the date of Contract Award.
- (2) Except for Commingled Plans in existence as of the effective date of the contract, any pension plan maintained by the Contractor for which DOE reimburses costs, shall be maintained as a separate pension plan distinct from any other pension plan that provides credit for service not performed under a DOE cost reimbursement contract. When deemed appropriate by the Contracting Officer, Commingled Plans shall be converted to Separate Plans at the time of new Contract Award or the extension of a contract.
- (g) Basic Requirements
- The Contractor shall adhere to the requirements set forth below in the establishment and administration of pension plans that are reimbursed by DOE pursuant to cost reimbursement contracts for management and operation of DOE facilities and pursuant to other cost reimbursement facilities contracts. Pension Plans include Defined Benefit and Defined Contribution plans.
- (1) The Contractor shall become a sponsor of the existing pension and other benefit plans listed below (or comparable successor plans), including other PRB plans, as applicable, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of those plans consistent with the requirements of Employee Retirement Income Security Act of 1974 (ERISA), and the Internal Revenue Code (IRC). The Contractor shall carry over the length of service credit and leave balances accrued as of the date of the Contractor' assumption of Contract performance.
- ORRCC Pension Plan for Grandfathered Employees
 - ORRCC Severance Plan for Grandfathered Employees
- (2) Each Contractor's defined benefit and defined contribution pension plan shall be subjected to a limited-scope audit annually that satisfies the requirements of ERISA Section 103, except that every third year the Contractor must conduct a full-scope audit of defined benefit plan(s) satisfying ERISA Section 103 (see Section J, Attachment J-4, *Summary of Contract Deliverables*). Alternatively, the Contractor may conduct a full-scope audit satisfying ERISA Section 103 annually. In all cases, the Contractor must submit the audit results to the Contracting Officer. In years in which a limited scope audit is conducted, the Contractor must provide the Contracting Officer with a copy of the qualified trustee or custodian's certification regarding the investment information that provides the basis for the plan sponsor to satisfy reporting requirements under ERISA Section 104 (see Section J, Attachment J-4, *Summary of Contract Deliverables*).

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

- (3) For existing Commingled Plans, the Contractor shall maintain and provide annual Separate Accounting of DOE liabilities and assets for a Separate Plan.
- (4) For existing Commingled Plans, the Contractor shall be liable for any shortfall in the plan assets caused by funding or events unrelated to DOE contracts.
- (5) The Contractor shall comply with the requirements of ERISA if applicable to the pension plan and any other applicable laws.
- (6) The Pension Management Plan (PMP) shall include a discussion of the Contractor’s plans for management and administration of all pension plans consistent with the terms of this Contract. The PMP shall be submitted in the iBenefits system, or its successor system no later than January 31 of each applicable year. A full description of the necessary reporting will be provided in the annual management plan data request. Within sixty (60) days after the date of the submission, appropriate Contractor representatives shall participate in a conference call to discuss the Contractor’s PMP submission and any other current plan issues or concerns.
- (7) Benefits for ORRCC MEPP] Eligible Employees
 - (i) MEPP – The Contractor shall ensure that ORRCC MEPP Eligible Employees are allowed to participate in the ORRCC MEPP consistent with the terms of the provisions of the ORCC MEPP as amended.
- (8) Pension and Other Benefits for Non-ORRCC MEPP Eligible Employees
 - (i) The Contractor shall offer a market-based package of retirement and medical benefits competitive for the industry to individuals who are Non-MEPP Eligible Employees. If the Contractor meets all applicable legal and tax requirements, the Contractor may establish a qualified separate line of business pursuant to Internal Revenue Code (IRC) 410 and 414 for the purpose of maintaining the Federal tax qualification of pension covering the Contractor’s employees.
 - (ii) Any benefit programs established and/or maintained by the Contractor, for which DOE reimburses costs, shall meet the tests of allowability and reasonableness established by FAR 31-205-6 and DEAR 970.3102-05-6.
- (h) Reimbursement of Contractors for Contributions to Defined Benefit Pension Plans
 - (1) Contractors that sponsor single employer or multiple employers defined benefit pension plans will be reimbursed for the annual required minimum contributions under the ERISA, as amended by the Pension Protection Act of 2006 and any other subsequent amendments. Reimbursement above the annual minimum required contribution will require prior approval of the Contracting Officer. Minimum required contribution amounts will take into consideration all pre-funding balances and funding standard carryover balances. Early in the fiscal year but no later than the end of November, the Contractor requesting above the minimum may submit/update a business case for funding above the minimum if preliminary approval is needed prior to the Pension Management

Plan process. The business case shall include a projection of the annual minimum required contribution and the proposed contribution above the minimum. The submission of the business case will provide the opportunity for the Department to provide preliminary approval, within 30 days after contractor submission, pending receipt of final estimates, generally after January 1st of the calendar year. Final approval of funding will be communicated by the Head of Contracting Activity when discount rates are finalized and it is known whether there are any budget issues with the proposed contribution amount.

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

(i) Reporting Requirements for Designated Contracts

The following reports shall be submitted to DOE as soon as possible after the last day of the plan year by the Contractor responsible for each designated pension plan funded by DOE but no later than the dates specified below (see Section J, Attachment J-4, *Summary of Contract Deliverables*):

- (1) Actuarial Valuation Reports. The annual actuarial valuation report for each DOE-reimbursed pension plan and when a pension plan is commingled, the Contractor shall submit separate reports for DOE's portion and the plan total by the due date for filing Internal Revenue Service (IRS) Form 5500.
- (2) Forms 5300. Copies of all forms in the 5300 series submitted to the IRS that document the establishment, amendment, termination, spin-off, or merger of a plan submitted to the IRS.

(j) Changes to Pension and PRB Plans

No presumption of allowability will exist when the Contractor makes changes to existing pension plans or PRB plans, and the Contractor has not provided the Contracting Officer the opportunity to review the allowability of the changes prior to implementation. The Contractor shall submit for prior approval changes that result in increases to the

Department’s long-term pension and PRB liabilities that are reported in the Department’s financial statement. Examples of changes that increase the Department’s long-term liabilities include defined benefit pension plan changes and PRB plan changes. At least sixty (60) days prior to the adoption of any changes to a pension plan, the Contractor shall submit the information required below, to the Contracting Officer (see Section J, Attachment J-4, *Summary of Contract Deliverables*). The Contracting Officer must approve plan changes that increase the Department’s long-term liabilities as part of a determination as to whether the costs are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6.

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

- (i) a copy of the current plan document (as conformed to show all prior plan amendments), with the proposed new amendment indicated in redline/strikeout;
- (ii) an analysis of the impact of any proposed changes on actuarial accrued liabilities and costs;
- (iii) except in circumstances where the Contracting Officer indicates that it is unnecessary, a legal explanation of the proposed changes from the counsel used by the plan for purposes of compliance with all legal requirements applicable to private sector defined benefit pension plans;
- (iv) the Summary Plan Description; and,
- (v) any such additional information as requested by the Contracting Officer.

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

- (i) demonstrate the effect of the plan changes on the contract net benefit value or percent of payroll benefit costs,
- (ii) provide the dollar estimate of savings or costs, and
- (iii) provide the basis of determining the estimated savings or cost.

(k) Terminating Operations

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

- (1) No further benefits for service shall accrue.
- (2) The Contractor shall provide a determination statement in its settlement proposal, defining and identifying all liabilities and assets attributable to the DOE contract.
- (3) The Contractor shall base its pension liabilities attributable to DOE contract work on the market value of annuities or lump sum payments or dispose of such liabilities through a competitive purchase of annuities or lump sum payouts.
- (4) Assets shall be determined using the “accrual-basis market value” on the date of termination of operations.

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

(l) Terminating Plans

- (1) DOE Contractors shall not terminate any pension plan (Commingled or site specific) without requesting Departmental approval at least 60 days prior to the scheduled date of plan termination.
- (2) To the extent possible, the Contractor shall satisfy plan liabilities to plan participants by the purchase of annuities through competitive bidding on the open annuity market or lump sum payouts. The Contractor shall apply the assumptions and procedures of the Pension Benefit Guaranty Corporation.
- (3) Funds to be paid or transferred to any party as a result of settlements relating to pension plan termination or reassignment shall accrue interest from the effective date of termination or reassignment until the date of payment or transfer.
- (4) If ERISA or IRC rules prevent a full transfer of excess DOE reimbursed assets from the terminated plan, the Contractor shall pay any deficiency directly to DOE according to a schedule of payments to be negotiated by the parties.
- (5) On or before the same day as the Contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets.
- (6) DOE liability to a Commingled pension plan shall not exceed that portion which corresponds to DOE contract service. The DOE shall have no other liability to the plan, to the plan sponsor, or to the plan participants.
- (7) After all liabilities of the plan are satisfied, the Contractor shall return to DOE an amount equaling the asset reversion from the plan termination and any earnings which accrue on that amount because of a delay in the payment to DOE. Such amount and such earnings shall be subject to DOE audit. To affect the purposes of this paragraph, DOE and the Contractor may stipulate to a schedule of payments.

(m) Special Programs

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

(n) Alternate Contractor Human Resource Requirements

Alternatively, the Contracting Officer may obtain an audit of the Contractor's compensation and benefits system and of its incurred costs from either DCAA or from DOE's independent public accounting firm (under contract with DOE); if the Contracting Officer does, the Contractor will not be required to submit the: (A) Compensation Increase Plan; and/or (B) Employee Benefits Cost Study.

(o) Definitions

- (1) **Commingled Plans.** Cover employees from the Contractor's private operations and its DOE contract work.
- (2) **Current Liability.** The sum of all plan liabilities to employees and their beneficiaries. Current liability includes only benefits accrued to the date of valuation. This liability is commonly expressed as a present value.
- (3) **Defined Benefit Pension Plan.** Provides a specific benefit at retirement that is determined pursuant to the formula in the pension plan document.
- (4) **Defined Contribution Pension Plan.** Provides benefits to each participant based on the amount held in the participant's account. Funds in the account may be comprised of employer contributions, employee contributions, investment returns on behalf of that plan participant and/or other amounts credited to the participant's account.
- (5) **Designated Contract.** For purposes of this clause, a contract (other than a prime cost reimbursement contract for management and operation of a DOE facility) for which the Head of the Departmental Contracting Activity determines that advance pension understandings are necessary or where there is a continuing Departmental obligation to the pension plan.
- (6) **Pension Fund.** The portfolio of investments and cash provided by employer and employee contributions and investment returns. A pension fund exists to defray pension plan benefit outlays and (at the option of the plan sponsor) the administrative expenses of the plan.
- (7) **Separate Accounting.** Account records established and maintained within a commingled plan for assets and liabilities attributable to DOE contract service. NOTE: The assets so represented are not for the exclusive benefit of any one group of plan participants.
- (8) **Separate Plan.** Must satisfy IRC Sec. 414(l) definition of a single plan, designate assets for the exclusive benefit of employees under DOE contract, exist under a separate plan document (having its own Department of Labor plan number) that is distinct from corporate plan documents and identify the Contractor as the plan sponsor.
- (9) **Spun-off Plan.** A new plan which satisfies IRC Reg. 1.414 (l)-1 requirements for a single plan and which is created by separating assets and liabilities from a larger original plan. The funding level of each individual participant's benefits shall be no less than before the event, when calculated on a "plan termination basis."

H.6 Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits

- (a) **Service Credit.** The Contractor shall provide pension and other benefit plans to Incumbent Employees and all other employees hired by the Contractor and service credit for leave as set forth below:
 - (1) **Service Credit for Leave.** For Incumbent Employees hired by the Contractor as set forth in clause H.3, entitled *Definitions*, the Contractor shall carry over accrued leave balances and the length of service credit from Incumbent Contractors for purposes of

determining rates of accruing leave for these employees as required by and consistent with applicable law and applicable collective bargaining agreement(s).

- (2) Service Credit for Fringe Benefits Other Than Leave. Service credit for all individuals hired by the Contractor shall be applied consistent with any applicable law, and the terms of the applicable benefit plan(s). Service credit for purposes of severance pay is subject to H.5 clause entitled, *DOE-H-2001 Employee Compensation: Pay and Benefits*.
- (b) Allowable Salary for Key Personnel. Within 20 days after the effective date of the Transition NTP or as identified by the Contracting Officer, the Contractor shall submit EM Form 3220.5, *Application for Contractor Compensation Approval*, to the Contracting Officer for each key personnel position listed in the Contract for a determination of cost allowability for reimbursement under the Contract. To support a reasonableness determination, the Contractor shall also provide compensation market survey data to support/justify the requested salary and any other information as requested by the Contracting Officer.
- (c) Administrative Agreements with Lead Sponsor. The lead sponsor United Cleanup Oak Ridge LLC (UCOR) or a lead sponsor successor of the ORRCC MEPP and other benefit plans in which the Contractor and UCOR or a lead sponsor successor are participating employers/sponsors, shall have primary responsibility for management and administration of these plans. UCOR or a lead sponsor successor shall provide management and administrative services for the Contractor for the ORRCC MEPP, and other benefit plans in which the Contractor and UCOR or a lead sponsor successor are participating employers/sponsors. The Contractor shall enter into administrative agreements with the lead sponsor, UCOR, or a lead sponsor successor, for the management and administration of these plans. The agreements and costs contained therein shall be subject to the approval of the Contracting Officer.
- (d) Annual Actuarial Valuations. Notwithstanding the above, the Contractor has responsibility for administering and maintaining the qualified status of all pension and other benefit plans that it sponsors under this Contract consistent with the plan documents. The Contractor shall submit to the Contracting Officer annual actuarial valuations for all applicable benefit plans as well as certify that the benefit plans are in full compliance with IRC and ERISA requirements. Such certification shall demonstrate that the benefit plans are qualified under the IRC. This valuation shall include but not be limited to written reports relating to how the benefit plans pass IRC discrimination, participation and coverage testing requirements. Each detailed annual written actuarial valuation shall identify any conditions that may adversely affect the qualification status of the plans within eighteen months or less of the date of the valuation, including but not limited to discrimination, participation and coverage testing requirements for the Contractor and any of its subcontractors that are participating employers in the plans.
- (1) Meeting Testing Requirements. With the approval of the Contracting Officer, the Contractor shall establish threshold factors that indicate when the Contractor's Defined Benefit Pension Plan(s) may not meet testing requirements within the next two plan years. Every six months the Contractor shall identify when the Defined Benefit Pension

Plan(s) may not meet testing requirements for the current plan year and the following plan year.

- (2) Failure to Meet Testing Requirements. In the case that the approved threshold factors described above and other factors as approved or requested by the Contracting Officer indicate that the Defined Benefit Pension Plan(s) may not meet testing requirements, the Contractor shall provide the Contracting Officer with a corrective action plan for addressing the potential or actual failure to meet testing requirements and quarterly updates on the status for testing purposes. After the corrective action plan has been submitted and approved by the Contracting Officer, the Contractor shall provide quarterly updates on the status for testing purposes.
- (3) Changes to the Defined Benefit Pension Plan(s). In addition to any other provision of this Contract, including but not limited to clause H.5, the Contractor shall provide advance written notification to the Contracting Officer for any other changes or amendments to the Defined Benefit Pension Plan(s) no less than 30 days prior to implementing the change or amendment. The advance written notification shall include the information detailed in H.5(j)(1).
- (e) Withdrawal from the ORRCC MEPP. In addition to the requirement in H.5 (i), (j) and (k), the Contractor shall not withdraw from the ORRCC MEPP without the consent of the Contracting Officer. If the Contractor withdraws without the consent of the Contracting Officer, all costs associated with such withdrawal may be determined to be unallowable and the Government retains the right to assert a claim against the Contractor for any costs of the Department associated with such withdrawal.

H.7 Workforce Transition and Benefits Transition: Plans and Timeframes

- (a) Workforce Transition Plan. The Contractor shall submit a Workforce Transition Plan for Contracting Officer approval, describing in detail the Contractor's plans and procedures as to how the Contractor will comply with the hiring preferences set forth in Section H clause, *Workforce Transition and Employee Hiring Preferences Including through Period of Performance*, and Section I clause DEAR 952.226-74, *Displaced Employee Hiring Preference*. The Workforce Transition Plan shall also detail the Contractor's plan for incorporating, if applicable, multiple unions with separate bargaining agreements. Notwithstanding timeframes identified elsewhere in the Contract, the Contractor shall perform the following activities in the specified timeframes:
 - (1) Within 10 days after the effective date of the Transition NTP, the Contractor shall (see Section J, Attachment J-4, *Summary of Contract Deliverables*):
 - (i) Provide the Contracting Officer with a list of Contractor personnel who will be responsible for transitioning the Incumbent Employees and for development of the transition agreements, including specifically the personnel responsible for ensuring that the Contractor complies with the National Labor Relations Act and clause H.9, *DOE-H-2028 Labor Relations*, and contact information for the above personnel.
 - (ii) Submit to the Contracting Officer a description of any and all transition agreements that it intends to enter into with the Incumbent Contractor to ensure compliance with clauses H.4, Workforce Transition and Employee Hiring

Preferences Including through Period of Performance and H.5 DOE-H-2001 Employee Compensation: Pay and Benefits during the Contract transition period.

- (iii) Establish and submit to the Contracting Officer a draft communication plan detailing the communication the Contractor and its subcontractors will engage in with its prospective employees and any labor organizations representing those employees, regarding implementation of the requirements set forth in clauses H.4, *Workforce Transition and Employee Hiring Preferences Including through Period of Performance* and H.5, *DOE-H-2001 Employee Compensation: Pay and Benefits*.
 - (iv) Obtain information from the Incumbent Contractor(s), identifying the Incumbent Employees as defined in clause H.3, *Definitions*.
 - (v) Submit to the Contracting Officer a description of the process for regularly obtaining updated information from the Incumbent Contractor regarding its Incumbent Employees throughout the Contract transition period.
- (2) Within 15 days after the effective date of the Transition NTP, the Contractor shall (see Section J, Attachment J-4, *Summary of Contract Deliverables*):
- (i) Submit to the Contracting Officer copies of the draft Workforce Transition Plan for the Contractor and its first and second tier subcontractors, including processes and procedures regarding how the Contractor will implement and ensure compliance with the hiring preferences set forth in clause H.4, *Workforce Transition and Employee Hiring Preferences Including through Period of Performance* and with the requirements of clause H.9, *H-2028 Labor Relations*, as applicable.
 - (ii) Establish and provide a copy to the Contracting Officer of its final written communication plan regarding:
 - A. Implementation of the hiring preferences in clause H.4, *Workforce Transition and Employee Hiring Preferences Including through Period of Performance*; and
 - B. The communication process among DOE, site tenants and, if applicable, labor organizations representing Incumbent Employees.
- (3) Within 20 days after the effective date of the Transition NTP, the Contractor shall provide to the Contracting Officer a copy of the final Workforce Transition Plan described in paragraph (a) above (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (4) Within 30 days after the effective date of the Transition NTP, the Contractor shall provide to the Contracting Officer copies of the final transition agreements described in paragraph (a)(1)(ii) above (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (5) The Contractor shall submit reports to the Contracting Officer regarding the Contractor's and its subcontractors' implementation of the hiring preferences required by clause H.4, *Workforce Transition and Employee Hiring Preferences Including through Period of Performance* in accordance with the timeframes set forth below. These reports shall include the following information: employee, hire date or anticipated hire dates; and,

where applicable, the Incumbent Contractor or subcontractor that employed the employee and the Contractor or subcontractor that hired the employee.

- (i) During the 60-day contract transition period, such reports shall be provided to the Contracting Officer on a weekly basis; or
 - (ii) On a less frequent basis, if requested by the Contracting Officer.
 - (6) The Contractor shall implement the transition activities as set forth in the approved transition plan and such other transition activities as may be authorized or directed by the Contracting Officer.
- (b) Benefits Transition Plan.
- (1) The Contractor shall submit a draft Benefits Transition Plan for Contracting Officer approval, within 15 days after the effective date of the Transition NTP, as set forth herein.
 - (i) A detailed description of the Contractor’s plans and procedures on how the Contractor will comply with clauses H.5, *DOE-H-2001 Employee Compensation: Pay and Benefits*; H.6, *Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits*; and this paragraph (b).
 - (ii) All transitions of the existing pension(s) plans including market-based retirement and medical plans and other existing benefit plans, as well as establishment of any new plans, shall be completed by the end of the contract transition period.
 - (iii) A detailed description of the Contractor’s policies regarding pensions and other benefits for which the Department reimburses costs under this Contract, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.
 - (iv) A written description of how pension and other benefit plans provided to employees pursuant to clauses H.5, *DOE-H-2001 Employee Compensation: Pay and Benefits* and H.6, *Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits* will be transitioned, or if needed, developed and implemented on or before the last day of the contract transition period.
 - (v) If needed, an asset transfer agreement(s) to transfer assets from the Incumbent Contractor’s defined benefit pension plan(s) to new defined benefit pension plan(s) to cover past eligibility service in order for the Contractor to adhere to the benefits sponsorship requirements set forth in this Contract.
 - (2) On or before the last day of the contract transition period the Contractor shall provide: 1) a description of the necessary transactions and how the Contractor proposes to comply with the Contract and applicable law governing such transactions; and 2) a schedule for Contracting Officer approval for when the benefit plan will be developed, and assets transferred.
 - (3) The Contractor shall perform the following activities involving benefit transition within the timeframes specified below.
 - (i) Within 10 days after the effective date of the Transition NTP, the Contractor shall (see Section J, Attachment J-4, *Summary of Contract Deliverables*):

- A. Provide the Contracting Officer with a list of Contractor personnel who will be responsible for the transition of existing benefit plans, and, if needed, development of new benefit plans, including specifically the contact information for the personnel responsible for ensuring that the Contractor develops and implements a defined benefit pension plan and a defined contribution pension plan.
 - B. Request the Incumbent Contractor(s) to provide information and documents necessary for the Contractor to adhere to the requirements set forth in this Contract pertaining to sponsoring existing benefits plans and the establishment of any new benefits plans, including, if needed, the transfer of assets from the Incumbent Contractor’s existing defined pension plan and other benefit plans on or before the end of the Contract transition Period.
 - C. Provide the Contracting Officer estimated costs and detailed breakouts of the costs to accomplish workforce and benefits transition activities within the timeframes specified, including the costs for enrolled actuaries and counsel.
- (ii) Within 15 days after the effective date of the Transition NTP, the Contractor shall provide to the Contracting Officer a list of the information and documents that the Contractor has requested from the Incumbent Contractor pertaining to the existing benefit plans. The Contractor shall notify the Contracting Officer on a timely basis of any issues or problems that it encounters in obtaining information or documents requested from the Incumbent Contractor. Regardless of such notification, the Contractor remains responsible under this Contract for ensuring compliance with the terms of this Contract, including the timeframes set forth in this clause and the requirements in clauses H.5, *DOE-H-2001 Employee Compensation: Pay and Benefits*, and H.6, *Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits*.
 - (iii) Within 20 days of effective date of the Transition NTP, the Contractor shall (see Section J, Attachment J-4, *Summary of Contract Deliverables*):
 - A. Submit the final draft Benefits Transition Plan.
 - B. Submit a detailed description of its plans and processes, including timeframes and specific projected dates for accomplishment of each activity necessary to ensure compliance with the requirements set forth in clauses H.5 *DOE-H-2001 Employee Compensation: Pay and Benefits*, and H.6 *Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits* including requirements pertaining to the transition of existing benefit plans (or plan segments) and, if needed, the establishment of employee benefit plans.
 - C. Identify relevant Contractor personnel or other personnel who will administer or assist in administering the benefit plans, including the Contractor’s benefit plan administrators and personnel, head of human resources, ERISA counsel, actuaries, and any other personnel deemed necessary by the Contractor.
 - D. Meet via televideo, teleconference, and/or in person with relevant personnel who administer the benefit plans for the Incumbent Contractor(s), if and when

necessary. The meeting shall include the Contractor’s benefit plan administrators and personnel, head of human resources, ERISA counsel, actuaries, and any and all other personnel deemed necessary by the Contractor. During such meeting, the Contractor shall discuss all matters necessary to ensure the Contractor adheres to its obligations under clauses H.5 *DOE-H-2001 Employee Compensation: Pay and Benefits* and H.6 *Special Provisions Applicable to Workforce Transition and Employee Compensation: Pay and Benefits*, including execution of transition agreements with the Incumbent Contractor(s), and other applicable entities. The minutes of the meeting as well as a written description of any substantive issues identified at the meeting shall be submitted to the Contracting Officer within two days after the meeting.

- (iv) Within 30 days after effective date of the Transition NTP, the Contractor shall provide the following to the Contracting Officer (see Section J, Attachment J-4, *Summary of Contract Deliverables*):
 - A. A final written Benefits Transition Plan, to include a written description of how the existing benefit plans provided to employees pursuant to clause H.5, *DOE-H-2001 Employee Compensation: Pay and Benefits* will be amended and restated on or before the last day of the Contract transition period.
 - B. Draft copies of the transition agreements the Contractor will enter into with the Incumbent Contractor(s) to ensure the Contractor’s compliance with the pay and benefits requirements set forth in clause H.4, *Workforce Transition and Employee Hiring Preferences Including through Period of Performance* and H.5, *DOE-H-2001 Employee Compensation: Pay and Benefits*.
 - C. Drafts of all amendments to or restatements of the pension and other benefit plans presently sponsored by the Incumbent Contractor(s), including but not limited to amendments effectuating the change in sponsorship/participating employer in the Incumbent Contractor’s segment of the Pension Plan(s). If applicable, the Contractor shall also submit all draft restated benefit plans and draft Summary Plan Descriptions for pension and other benefit plans sponsored by the Incumbent Contractor(s). Any and all such amendments shall comply with applicable law governing such transactions and changes in sponsorship of the plans.
 - D. If needed, as agreed to in the final written Benefits Transition Plan in (A) above, draft or proposed final versions of any new defined benefit and defined contribution pension plans, and other benefit plans or plan changes to existing benefit plans with time frames for implementation including applicable draft Summary Plan Descriptions that the Contractor proposes to sponsor.
- (v) No later than 60 days after the effective date of the Transition NTP and prior to the adoption or execution of those documents identified in paragraph (iv)(A-D) above, the Contractor shall submit to the Contracting Officer for approval the proposed final versions of these documents (see Section J, Attachment J-4, *Summary of Contract Deliverables*).

- (vi) If the Contractor is unable to fully implement a market-based plan by the end of the Contract transition period, the Contractor shall submit a proposal (including, but not limited to, plan description, proposed changes, schedule, implementation strategy, cost/benefit analysis) within 90 days after the end of the Contract transition period to the Contracting Officer for approval.
 - (vii) The Contractor shall respond to any comments provided by the Contracting Officer under any of the above subparagraphs (b)(1) and (b)(2) within two days of receipt of the comments, or the period of time specified by the Contracting Officer.
- (4) After the Contract Transition Period and throughout the remaining ordering period of the Contract, the Contractor shall promptly provide upon request the following information to the Contracting Officer (see Section J, Attachment J-4, *Summary of Contract Deliverables*):
- (i) Documents relating to benefit plans offered to Contractor employees, including but not limited to Summary Plan Descriptions, all Plan documents, applicable amendments, employee handbooks that summarize benefits provided to employees, and other documents that describe benefits provided to employees of the Contractor who perform work on this Contract;
 - (ii) Any and all other documents pertaining to implementation of and compliance with implementation of the compensation and benefit programs identified in clause H.5 *DOE-H-2001 Employee Compensation: Pay and Benefits*; and
 - (iii) Additionally, the Contractor shall provide timely data responses to Departmental annual and ad hoc pension and PRB data requests. Such data responses shall be provided within the timeframe established by the Contracting Officer for each response and, if no timeframe is specified, the Contractor shall provide the data response within one calendar day.

H.8 DOE-H-2004 Post Contract Responsibilities for Pension and Other Benefit Plans (Oct 2014)

- (a) If this Contract expires and/or terminates and DOE has awarded a contract under which a new contractor becomes a sponsor and assumes responsibility for management and administration of the pension or other benefit plans identified in (g)(l) of clause H.5 entitled, *DOE-H-2001 Employee Compensation: Pay and Benefits (collectively, the “Plans”)*, the Contractor shall cooperate and transfer to the new contractor its responsibility for sponsorship, management and administration of the Plans consistent with direction from the Contracting Officer. If a Commingled plan is involved, the Contractor shall:
 - (1) Spinoff the DOE portion of any Commingled Plan used to cover employees working at the DOE facilities into a separate plan. The new plan will normally provide benefits similar to those provided by the commingled plan and shall carry with it the DOE assets on an accrual basis market value, including DOE assets that have accrued in excess of DOE liabilities; and
 - (2) Bargain in good faith with DOE or the successor contractor to determine the assumptions and methods for establishing the liabilities involved in a spinoff. DOE and the

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

- (b) If this Contract expires or terminates, and DOE has not awarded a contract to a new contractor under which the new contractor becomes a sponsor and assumes responsibility for management and administration of the Plans, or if the Contracting Officer determines that the scope of work under the Contract or any applicable Task Order has been completed (any one such event may be deemed by the Contracting Officer to be “Contract Completion” for purposes of this clause), whichever is earlier, and notwithstanding any other obligations and requirements concerning expiration or termination under any other clause of this Contract or any applicable Task Order, the following actions shall occur regarding the Contractor’s obligations regarding the Plans at the time of Contract or any applicable Task Order completion:
- (1) Subject to subparagraph (2) below, and notwithstanding any legal obligations independent of the Contract the Contractor may have regarding responsibilities for sponsorship, management, and administration of the Plans, the Contractor shall remain the sponsor of the Plans, in accordance with applicable legal requirements.
 - (2) The parties shall exercise their best efforts to reach agreement on the Contractor’s responsibilities for sponsorship, management, and administration of the Plans for which DOE reimburses costs, prior to or at the time of Contract Completion. However, if the parties have not reached agreement on the Contractor’s responsibilities for sponsorship, management and administration of the Plans prior to or at the time of Contract or any applicable Task Order completion, unless and until such agreement is reached, the Contractor shall comply with written direction from the Contracting Officer regarding the Contractor’s responsibilities for continued provision of pension and welfare benefits under the Plans, including but not limited to continued sponsorship of the Plans, in accordance with applicable legal requirements. To the extent that the Contractor incurs costs in implementing direction from the Contracting Officer, the Contractor’s costs will be reimbursed pursuant to applicable Contract provisions.

H.9 DOE-H-2028 Labor Relations (Oct 2014) (Revised)

- (a) The Contractor shall respect the right of employees to organize, and to form, join, or assist labor organizations; to bargain collectively through their chosen labor representatives; to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to refrain from any or all of these activities consistent with applicable laws.
- (b) Consistent with applicable labor laws and regulations, for work currently performed by workers represented by the United Steelworkers, Local 550 (the union) on the effective date of this Contract, the Contractor agrees to initially consult with the union regarding the initial terms and conditions of employment and to recognize the union as the collective bargaining representative for individuals performing work that has historically and traditionally been performed by workers represented by the union and is covered in the scope of this contract, and to bargain in good faith to a collective bargaining agreement that gives due consideration

to applicable terms and conditions of the existing collective bargaining agreement(s) for work at the Paducah site.

- (c) The Contractor shall submit its economic bargaining parameters to, and obtain the approval of, the Contracting Officer regarding allowability of the costs, and compliance with the terms and conditions of the Contract, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process (see Section J, Attachment J-4, *Summary of Contract Deliverables*). During the collective bargaining negotiations, the Contractor shall notify, and obtain the approval of, the Contracting Officer before submitting or agreeing to any collective bargaining proposal that increases or may increase allowable costs above those previously approved in the economic bargaining parameters, or that could involve changes in any pension or other benefit plans, and such other items of special interest to DOE as are identified by the Contracting Officer. The approval of the economic bargaining parameters by the Contracting Officer under this paragraph does not waive any other terms and conditions of the Contract.
- (d) The Contractor will seek to maintain harmonious bargaining relationships that reflect a judicious expenditure of public funds, equitable resolution of disputes and effective and efficient bargaining relationships consistent with the requirements of FAR Subpart 22.1, DEAR Subpart 970.2201-1, and all applicable Federal and state labor relations laws.
- (e) The Contractor shall use its best efforts to ensure that collective bargaining agreements negotiated under this Contract or specific Task Order contain provisions designed to assure no disruption in services during the performance of the Contract or specific Task Order. All such collective bargaining agreements entered into during the Contract Ordering Period/Task Order period of performance should, to the extent that the parties to those collective bargaining agreements agree, provide that grievances and disputes involving the interpretation or application of the agreement will be settled without resorting to strike, lockout or other disruption in services. For this purpose, each collective bargaining agreement should provide an effective grievance procedure with arbitration as its final step, unless the parties agree upon some other method of assuring no disruption in services. The Contractor shall include the substance of this subparagraph (e) in any subcontracts.
- (f) In addition to FAR 52.222-1, *Notice to the Government of Labor Disputes*, and other requirements in the contract, the Contractor shall immediately notify the Contracting Officer or designee of all labor relations issues and matters of interest, including, but not limited to, organizing initiatives, unfair labor practice charges or complaints, work stoppages, picketing, labor arbitrations, National Labor Relations Board charges, legal or judicial proceedings, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (g) The Contractor shall immediately notify the Contracting Officer or designee of any planned or actual strike or work stoppage involving its employees or employees of a subcontractor.
- (h) The Contractor shall provide the Contracting Officer or designee a copy of all arbitration decisions issued by an arbitrator within one week of receipt of the decision.
- (i) The Contractor shall provide the Contracting Officer or designee with a “Report of Settlement” after ratification of a collective bargaining agreement by accessing and inputting

the information into the Labor Relations module (GCLR) of DOE's iBenefits reporting system, or its successor system, during the next open quarter. Such information shall include negotiated wages, pension, medical and other benefits costs, and a copy of the collective bargaining agreement and any subsequent modifications (see Section J, Attachment J-4, *Summary of Contract Deliverables*).

- (j) The Contractor shall provide to the Contracting Officer or designee a semi-annual report on grievances for which further judicial or administrative proceedings are anticipated, and all final step grievances. Within one day of receipt, the Contractor shall immediately provide information on all arbitration requests. The reports are due June 30 and December 30, of each year, and should include the following information:
 - (1) List of all final step grievances filed during the previous six-month period and grievances for which further judicial or administrative proceedings are anticipated, together with the dates filed;
 - (2) A brief description of issues regarding each grievance;
 - (3) If settled, the date of settlement, and terms of the settlement. If a denial is made at the final step and the period for requesting arbitration passes, report the matter as closed; and
 - (4) If not settled during the six-month reporting period, carry the item over to the subsequent six-month reporting periods until settlement, request for arbitration, closure, or other proceeding occurs.
- (k) Consistent with applicable labor laws and regulations, the Contractor and its subcontractors at all tiers performing work covered by the Wage Rate Requirements (Construction) (formerly known as the Davis-Bacon Act) shall become signatory to the project labor agreement (if any) covering the Paducah site. The Contractor employees and subcontractor employees performing such work shall receive pay and benefits consistent with the labor agreement unless otherwise negotiated between the Contractor and the applicable labor organization. The applicable labor agreement(s) apply to construction performed under the Contract consistent with the terms of the applicable labor agreement(s).

H.10 Workforce Restructuring

- (a) The Contractor shall regularly analyze workforce requirements and will develop appropriate workforce restructuring strategies to ensure continued availability of the critical workforce knowledge, skills, and abilities necessary for performance under this Contract.
- (b) When the Contractor determines that a change in the workforce is necessary, the Contractor shall accomplish the workforce restructuring in a manner consistent with the DOE General Workforce Restructuring Plan, if applicable, in effect for the facility or site. The General Plan lays out how Contractor workforce restructuring will be conducted at the applicable site in a manner that is consistent with DOE policy.

The Contractor is only required to provide notification of Self-Select Voluntary Separation Programs of 100 or more if consistent with the following parameters: 1) in accordance with approved laboratory and Contractor policies and contract requirements; 2) no enhanced benefits (severance or pension); 3) no backfilling or re-employment of employees for a one-year period after severance is paid; 4) business case submitted 30 business days in advance of notification date that includes maximum number of voluntary separations, maximum dollars,

positions/skills impacted; reasons separations are needed, including how conducting a Self-Select Voluntary Separation Program will better position the Contractor to conduct the mission work; copies of the self-select application and any employee waivers or releases of claims, and a communication plan; and 5) voluntary separations offered to employees in a non-discriminatory and legally compliant manner. There is no backfilling where a separating employee is replaced by an internal candidate so long as:

- (1) The separating employee is leaving voluntarily;
 - (2) The internal replacement is a regular, permanent employee on the Contractor's payroll, not a temporary hire, staff augmentee, or someone serving under a post-doctoral program, or other short term program;
 - (3) The replacement results in a net reduction in headcount and costs of regular employees; and
 - (4) The replacement is accomplished in an otherwise legally compliant manner, including no unlawful intent to discriminate based upon age.
- (c) The Contractor shall ensure it does not hire or rehire individuals who volunteered for termination during a Self-Select Voluntary Separation Program, at any DOE or NNSA site, during the one-year period following the separation. If an employee is hired or rehired prior to the one-year period, the employee may be required to pay back to the Contractor who provided the severance payment, all or a pro-rata amount of the severance received under the Voluntary Separation Program.
- (d) The Contractor must prepare and submit to the Contracting Officer a specific workforce restructuring plan (Specific Plan), as described below in paragraph (e), if the Contractor intends to reduce its workforce by 100 or more employees through an involuntary separation action within a rolling 12-month period (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (e) The Contractor's Specific Plan shall lay out how the Contractor will conduct its workforce restructuring action at the site. The Contractor's Specific Plan for reducing 100 or more employees through an involuntary separation action shall be submitted to the Contracting Officer for approval at least 60 days in advance of the first communication planned to be given to the employees and public. Any other Specific Plans must be submitted 30 business days in advance of the first communication planned to be given to the employees and public. The templates for contractor Involuntary Separation Plan, as well as the General Release and Waiver Forms, are available online at: <http://www.energy.gov/gc/services/technology-transfer-and-procurement/office-assistant-general-counsel-labor-and-pension>.
- (f) Pay-in-lieu of notice beyond two workweeks requires written advance Contracting Officer approval. The Contractor shall submit the request to the Contracting Officer as part of the Workforce Restructuring package submitted for approval in (e) above, and include the number of days of pay-in-lieu of notice requested, above two work-weeks, a detailed business justification, and the associated costs.
- (g) The Contractor is encouraged to consider the use of employee waivers and releases. DOE has developed a model waiver and release of claims. The forms are available online at the

website set forth in (e) above. Any deviation from the models must be approved by the Contracting Officer.

- (h) The Contractor must perform an adverse impact analysis (also known as a diversity analysis) as part of its determination to undertake involuntary separation action(s). A copy of the diversity analysis for involuntary separation action(s) affecting 100 or more Contractor employees within a rolling 12-month period shall be submitted to the Contracting Officer and DOE or NNSA site counsel, as applicable, prior to notification of employees selected for involuntary separation (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (i) The Contracting Officer will review and approve any Specific Plan or diversity analysis submitted for review affecting the reduction of 100 or more employees through an involuntary separation action within 10 business days after submission of a complete package by the Contractor unless the Contractor is notified of issues necessitating an extension of time. Should DOE request additional information from the Contractor regarding any Specific Plan or diversity analysis, the Contractor will respond to such request within 3 business days.
- (j) The Contractor is responsible and accountable for conducting and defending all voluntary and involuntary separation actions in compliance with applicable laws, regulations, and the contract terms and conditions.
- (k) Questions of cost allowability related to: a) any Self-Select Voluntary Separation Programs for which the Contractor provides only notification, or b) any involuntary separation program(s) conducted without Contracting Officer approval will be resolved consistently with applicable laws and regulations and with the terms and conditions of this contract, including, but not limited to, DEAR at 48 C.F.R. 952.231-71(f).

H.11 Labor Standards

- (a) The Contracting Officer will determine the appropriate labor standards that apply to specific work activities in accordance with the Construction Wage Rate Requirements 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 Contracting Officer for specific work activities by submitting proposed work packages that describe the specific activities to be performed for particular work and other information as necessary for DOE to make a determination regarding the appropriate labor standard(s) for the work or aspects of the work (see Section J, Attachment J-4, *Summary of Contract Deliverables*). 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 Construction Wage Rate Requirements, 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 Construction Wage Rate Requirements, Contractor shall maintain payroll records for a period of three years from completion of the

Contract, or applicable Task Order, 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 Publications 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 Contracting Officer (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (d) In addition to any other requirements in the Contract, Contractor shall as soon as possible notify the Contracting Officer of all labor standards issues, including all complaints regarding incorrect payment of prevailing wages and/or fringe benefits, received from Contractor or subcontractor employees; significant labor standards violations, as defined in 29 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, Task Order, or subcontract. The Contractor shall furnish such additional information as may be required from time to time by the Contracting Officer.
- (e) The Contractor shall prepare and submit, to the Contracting Officer, the Semi-Annual Davis-Bacon Enforcement Report, by April 21 and October 21 of each year. Form submittal will be administered through the DOE iBenefits system or its successor system (see Section J, Attachment J-4, *Summary of Contract Deliverables*).

H.12 DOE-H-2003 Worker’s Compensation Insurance (Oct 2014)

- (a) Contractors, other than those whose workers’ compensation coverage is provided through a state funded arrangement or a corporate benefits program, shall submit to the Contracting Officer for approval all new compensation policies and all initial proposals for self-insurance (Contractors shall provide copies to the Contracting Officer of all renewal policies for workers compensation) (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (b) Workers compensation loss income benefit payments, when supplemented by other programs (such as salary continuation, short-term disability) are to be administered so that total benefit payments from all sources shall not exceed 100 percent of the employee's net pay.
- (c) Contractors approve all workers compensation settlement claims up to the threshold established by the Contracting Officer for DOE approval and submit all settlement claims above the threshold to DOE for approval.
- (d) The Contractor shall obtain approval from the Contracting Officer before making any significant change to its workers compensation coverage and shall furnish reports as may be required from time to time by the Contracting Officer.

H.13 DOE-H-2073 Risk Management and Insurance Programs (Dec 2014) (Revised)

Contractor officials shall ensure that the requirements set forth below are applied in the establishment and administration of DOE-funded prime cost reimbursement contracts for

management and operation of DOE facilities and other designated long-lived onsite contracts for which the Contractor has established separate operating business units.

(a) Basic Requirements

- (1) Maintain commercial insurance or a self-insured program, (i.e., any insurance policy or coverage that protects the Contractor from the risk of legal liability for adverse actions associated with its operation, including malpractice, injury, or negligence) as required by the terms of the Contract. Types of insurance include automobile, general liability, and other third-party liability insurance. Other forms of coverage must be justified as necessary in the operation of the Department facility and/or the performance of the Contract, and approved by the DOE.
- (2) Contractors shall not purchase insurance to cover public liability for nuclear incidents without DOE authorization (see DEAR 950.5070 entitled, *Indemnification* and DEAR 950.70 entitled, *Nuclear Indemnification of DOE Contractors*).
- (3) Demonstrate that insurance programs and costs comply with the cost limitations and exclusions at FAR 28.307 entitled, *Insurance Under Cost Reimbursement Contracts*, FAR 31.205-19 entitled, *Insurance and Indemnification*, DEAR 931.205-19 entitled, *Insurance and Indemnification*, and DEAR 970.3102-05-19, entitled, *Insurance and Indemnification*.
- (4) Demonstrate that the insurance program is being conducted in the Government's best interest and at a reasonable cost.
- (5) The Contractor shall submit copies of all insurance policies or insurance arrangements to the Contracting Officer no later than 30 days after the purchase date (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (6) When purchasing commercial insurance, the Contractor shall use a competitive process to ensure costs are reasonable.
- (7) Ensure self-insurance programs include the following elements:
 - (i) Compliance with criteria set forth in FAR 28.308 entitled, *Self-Insurance*. Approval of self-insurance is predicated upon submission of verifiable proof that the self-insurance charge does not exceed the cost of purchased insurance. This includes hybrid plans (i.e., commercially purchased insurance with self-insured retention, such as large deductible, matching deductible, retrospective rating cash flow plans, and other plans where insurance reserves are under the control of the insured). The self-insured retention components of such plans are self-insurance and are subject to the approval and submission requirements of FAR 28.308, as applicable.
 - (ii) Demonstration of full compliance with applicable state and federal regulations and related professional administration necessary for participation in alternative insurance programs.
 - (iii) Safeguards to ensure third party claims and claims settlements are processed in accordance with approved procedures.
 - (iv) Accounting of self-insurance charges.

- (v) Accrual of self-insurance reserve. The Contracting Officer’s approval is required and predicated upon the following:
 - A. The claims reserve shall be held in a special fund or interest bearing account.
 - B. Submission of a formal written statement to the Contracting Officer stating that use of the reserve is exclusively for the payment of insurance claims and losses, and that DOE shall receive its equitable share of any excess funds or reserve.
 - C. Annual accounting and justification as to the reasonableness of the claims reserve submitted for Contracting Officer review.
 - D. Claim reserves, not payable within the year the loss occurred, are discounted to present value based on the prevailing Treasury rate.
- (8) Separately identify and account for interest cost on a Letter of Credit used to guarantee self-insured retention, as an unallowable cost and omitted from charges to the DOE contract.
- (9) Comply with the Contracting Officer’s written direction for ensuring the continuation of insurance coverage and settlement of incurred and/or open claims and payments of premiums owed or owing to the insurer for prior DOE contractors.
- (b) Plan Experience Reporting. The Contractor shall:
 - (1) Provide the Contracting Officer with annual experience reports for each type of insurance (e.g., automobile and general liability), listing the following for each category:
 - (i) The amount paid for each claim.
 - (ii) The amount reserved for each claim.
 - (iii) The direct expenses related to each claim.
 - (iv) A summary for the year showing total number of claims.
 - (v) A total amount for claims paid.
 - (vi) A total amount reserved for claims.
 - (vii) The total amount of direct expenses.
 - (2) Provide the Contracting Officer with an annual report of insurance costs and/or self-insurance charges (see Section J, Attachment J-4, *Summary of Contract Deliverables*). When applicable, separately identify total policy expenses (e.g., commissions, premiums, and costs for claims servicing) and major claims during the year, including those expected to become major claims (e.g., those claims valued at \$100,000 or greater).
 - (3) Provide additional claim financial experience data as may be requested on a case-by-case basis.
- (c) Terminating Operations. The Contractor shall:
 - (1) Ensure protection of the Government’s interest through proper recording of cancellation credits due to policy terminations and/or experience rating;

- (2) Identify and provide continuing insurance policy administration and management requirements to a successor, other DOE contractors, or as specified by the Contracting Officer; and
 - (3) Reach agreement with DOE on the handling and settlement of claims incurred but not reported at the time of Contract termination; otherwise, the Contractor shall retain this liability.
- (d) Successor Contractor or Insurance Policy Cancellation. The Contractor shall:
- (1) Obtain the written approval of the contracting officer for any change in program direction; and
 - (2) Ensure insurance coverage replacement is maintained as required and/or approved by the contracting officer.

H.14 Overtime Control Reporting

The Contractor shall submit a Summary Overtime Justification Report of the overtime hours worked to the Contracting Officer six (6) months after the NTP and annually thereafter, no later than November 30 of each year (See Section J, Attachment J-4, *Summary of Contract Deliverables*). Summary Overtime Justification Reports shall be reported, at a minimum, by Common Occupational Classification System sub-codes, differentiate between premium and non-premium overtime, and provide sufficient detail to demonstrate all three (3) of the following:

- (1) Compliance with provisions set forth in FAR 52.222-2;
- (2) All other alternatives to overtime were evaluated prior to working overtime and found inadequate or not feasible; and
- (3) Overtime hours worked were in the best interest of the Government.

Summary Overtime Justification Reports will be used to assist the Contracting Officer in determining reasonableness and cost allowability. If the total overtime hours on a rolling 12-month average exceeds 10 percent, the Contractor shall submit to the Contracting Officer an Overtime Control Plan (See Section J, Attachment J-4, *Summary of Contract Deliverables*). The overtime percentage is to be calculated by dividing total overtime hours worked by total hours worked (i.e., the sum of overtime hours and straight time hours). This overtime premium will not be considered a Contracting Officer determination of overtime reasonableness or cost allowability.

DOE CORPORATE CLAUSES OTHER THAN CHRM

H.15 DOE-H-2014 Contractor Acceptance of Notices of Violations or Alleged Violations, Fines, and Penalties (Oct 2014) (Revised)

- (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) Liability and responsibility for fines or penalties and associated costs arising from or related to violations of environmental requirements imposed by applicable Federal, state, and local environmental laws and regulations, including, without limitation, statutes, ordinances, regulations, court orders, consent decrees, administrative orders, or compliance agreements, consent orders, permits, and licenses; and safety, health or quality requirements shall be borne by the party that caused the violation(s). This clause resolves liability for fines and penalties though the cognizant regulatory authority may assess such fines or penalties upon either party or both parties without regard to the allocation of responsibility or liability under this Contract. The allocation of liability for such fine or penalty is effective regardless of which party signs permit application, manifest, reports or other required documents, is assessed a fine or penalty, is a permittee, or is named subject of an enforcement action.
- (c) After providing DOE advance written notice, the Contractor shall conduct negotiations with regulators regarding NOVs/NOAVs and fine and penalties. DOE may participate in all negotiations with regulatory agencies regarding permits, fines, penalties, and any other proposed notice, notice, administrative order, and any similar type of notice as described in paragraphs (a) and (b) above. However, the Contractor shall not make any commitments or offers to regulators that would bind the Government, including monetary obligations, without first obtaining written approval from the CO. Failure to obtain advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.
- (d) The Contractor shall notify DOE promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.

H.16 DOE-H-2016 Performance Guarantee Agreement (Oct 2014)

The Contractor's parent organization(s) or all member organizations if the Contractor is a joint venture, limited liability company, or other similar entity, shall guarantee performance of the Contract as evidenced by the Performance Guarantee Agreement incorporated in the Contract in Section J, Attachment J-11 *Executed Performance Guarantee Agreement*. If the Contractor is a joint venture, limited liability company, or other similar entity where more than one organization is involved, the parent(s) or all member organizations shall assume joint and severable liability for the performance of the contract. In the event any of the signatories to the Performance Guarantee Agreement enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

H.17 DOE-H-2017 Responsible Corporate Official and Corporate Board of Directors (Oct 2014) (Revised)

The Contractor has provided a guarantee of performance from its parent company(s) in the form set forth in Section J, Attachment J-11 *Executed Performance Guarantee Agreement*. The individual signing the *Executed Performance Guarantee Agreement* for the parent company(s) should be the Responsible Corporate Official. The Responsible Corporate Official is the person who has sole corporate (parent company(s)) authority and accountability for Contractor performance. DOE may contact, as necessary, the single Responsible Corporate Official identified below regarding Contract performance issues. The parent companies shall proactively

support the Responsible Corporate Official to ensure adverse Contract performance issues are avoided, identified, and/or resolved in a timely manner. The Responsible Corporate Official shall promptly notify the DOE Contracting Officer of the corrective actions (both taken and planned) to address the adverse contract performance.

Responsible Corporate Official: [Offeror Fill-In]

Name: _____

Position: _____

Company/Organization: _____

Address: _____

Phone: _____

Facsimile: _____

Email: _____

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

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

Corporate Board of Directors: [Offeror Fill-In]

Name: _____

Position: _____

Company/Organization: _____

Address: _____

Phone: _____

Facsimile: _____

Email: _____

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

The Responsible Corporate Official and Corporate Board of Directors shall be engaged and accountable for performance of the Contract scope and the highest standard of business integrity through the Contractor’s robust performance assurance system in accordance with DOE Order 226.1 *Implementation of Department of Energy Oversight Policy* and the Section H clause, *Contractor Assurance System*. The Responsible Corporate Official through the Contractor shall submit to the Contracting Officer a quarterly report using appropriate corporate metrics for DOE review. The quarterly report shall be risk-informed and a credible self-assessment that includes individual project performance, technical solutions, as needed, and appropriate coverage of potentially high consequence activities under the contract, including work of subcontractors. The annual Contractor Performance Assessment Reporting System (CPARS) evaluation shall

consider the execution of the requirements of this clause, including the Contractor’s performance managing its subcontractors.

H.18 DOE-H-2018 Privacy Act Systems of Records (Oct 2014) (Revised)

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

DOE Privacy Act System No.	DOE Privacy Act System Description
DOE-3	Employee Concerns Program Records
DOE-5	Personnel Records of Former Contractor Employees (Includes All Former Workers)
DOE-10	Energy Employees Occupational Illness Compensation Program Act Files
DOE-11	Emergency Operations Notification Call List
DOE-14	Report of Compensation
DOE-15	Intelligence-Related Access Authorization
DOE-18	Financial Accounting System
DOE-23	Property Accountability System
DOE-26	Official Travel Records
DOE-28	General Training Records
DOE-31	Firearms Qualification Records
DOE-33	Personnel Medical Records (Present and Former DOE Employees and Contractor Employees)
DOE-34	Employee Assistance Program (EAP) Records
DOE-35	Personnel Radiation Exposure 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*, FAR 52.224-2 entitled, *Privacy Act*, and FAR 52.224-3 entitled, *Privacy Training* are mandatory flow-down clauses that must be included in any subcontract requiring design, development, or operation of a Privacy Act system of records, 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 records 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.

H.19 DOE-H-2019 Disposition of Intellectual Property – Failure to Complete Contract (Jul 2018)

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

- (a) The Government may take possession of and use all the technical data, including limited rights data, restricted computer software, and data and software obtained from subcontractors, licensors, and licensees, necessary to complete the work in conformance with this contract, including the right to use the data in any Government solicitations for the completion of the work contemplated under this Contract. Technical data includes, but is not limited to, specifications, designs, drawings, operational manuals, flowcharts, software, databases and any other information necessary for the completion of the work under this Contract. Limited rights data and restricted computer software will be protected in accordance with the provisions of the Section I clause, FAR 52.227-14 *Rights in Data - General*. The Contractor shall ensure that its subcontractors and licensors make similar rights available to the Government and its contractors.
- (b) The Contractor agrees to and does hereby grant to the Government an irrevocable, non-exclusive, paid-up license in and to any inventions or discoveries regardless of when conceived or actually reduced to practice by the Contractor, and any other intellectual property, including technical data, which are owned or controlled by the Contractor, at any time through completion of this Contract and which are incorporated or embodied in the construction of the facilities or which are utilized in the operation or remediation of the facilities or which cover articles, materials or products manufactured at a facility: (1) to practice or to have practiced by or for the Government at the facility; and (2) to transfer such license with the transfer of that facility. The acceptance or exercise by the Government of the

aforesaid rights and license shall not prevent the Government at any time from contesting the enforceability, validity or scope of, or title to, any rights or patents or other intellectual property herein licensed.

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

H.20 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 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, an activity that could adversely affect the safe operation of, or could cause serious damage to the facility if allowed to continue, or an action that could result in the release of radiological or chemical hazards to the environment in excess of regulatory limits, 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 (e.g., directing the operator/implementer of the activity or process causing the imminent hazard to stop work, initiating emergency response actions or other actions) to protect the health and safety of the workers and the public, and to protect 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(s) should subsequently be coordinated with the DOE and Contractor management. The suspension or stop-work order should be promptly confirmed in writing by the CO.
- (c) Shutdown. In the event of an imminent danger in relation to the facility safety envelope or a non-Imminent Health and Safety Hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or other individuals, the individual or group identifying the potential health and safety hazard may recommend facility shutdown in addition to any immediate actions needed to mitigate the situation. However, the recommendation must be coordinated with Contractor management, and the DOE Site Manager. Any written direction to suspend operations shall be issued by the CO.
- (d) 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 CO” in all subcontracts.

H.21 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.22 DOE-H-2034 Contractor Interface with Other Contractors and/or Government Employees (Oct 2014) (Revised)

The Government may award contracts to other contractors for work to be performed at a DOE-owned or DOE-controlled site or facility. The Contractor shall cooperate fully with all other onsite DOE contractors and Government employees. The Contractor shall coordinate its own work with such other work as may be directed by the CO or a duly authorized representative. The Contractor shall not commit any act which will interfere with the performance of work by any other contractor or by a Government employee and seek CO direction if there is an unresolved conflict.

**H.23 DOE-H-2035 Organizational Conflict of Interest Management Plan (Oct 2014)
(Revised)**

Within 15 calendar days after the Notice To Proceed, the Contractor shall submit to the CO 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 entitled, 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 CO. The resolution of potential or actual conflicts of interest that exist or may arise during contract performance shall be documented as part of the Plan.
- (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 CO 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.24 DOE-H-2041 Sustainable Acquisition Under DOE Service Contracts (Oct 2014)

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

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

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

H.25 DOE-H-2043 Assignment and Transfer of Prime Contracts and Subcontracts (Oct 2014) (Revised)

- (a) Assignment and Transfer of other DOE Prime Contracts. During the period of performance (POP) of this Contract it may become necessary for the DOE to transfer and assign existing or future DOE prime contracts in whole or in part supporting site work to this Contract. The Contractor shall accept the transfers and assignments of contracts. Transfer and assignment of prime contracts to the Contractor, if any, will be for administration purposes, and once transferred, will become subcontracts to the Contractor. Any recommendations and/or suggestions on individual transfers shall be submitted in writing to the CO prior to the transfer or assignment.
- (b) Assignment and Transfer of this Prime Contract. During the POP of this Contract it may become necessary for the DOE to transfer and assign in whole or in part this Contract to another DOE contractor. The Contractor shall accept the transfers and assignment. Transfer and assignment, if any, will be for administration purposes, and once transferred, will become a subcontract to the assignee. Any recommendations and/or suggestions on

individual transfers shall be submitted in writing to the CO prior to the transfer or assignment.

- (c) Transfer and Assignment of Subcontracts. The Contractor agrees to transfer and assign or accept transfer and assignment of existing subcontracts including lower-tier subcontracts as determined necessary by DOE for continuity of operations. The transfer and assignment may be to or from another contractor or to or from DOE as a prime contractor. Transfer or assignment of subcontracts to or from the Contractor, if any, will be for administration purposes, and once transferred, will become subcontracts to the Contractor. The Contractor shall use its best efforts to negotiate changes to the assigned subcontracts incorporating mandatory flow-down provisions at no cost. If the subcontractor refuses to accept the changes or requests price adjustments, the Contractor will notify the CO in writing. This Clause is required as a flow-down clause in all subcontracts.

H.26 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 30 calendar days of its approval by the Contracting Officer (See Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (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 workforce. The diversity plan shall also address, at a minimum, the Contractor's approach for promoting diversity through (1) the Contractor's workforce; (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-4, *Summary of Contract 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.27 DOE-H-2052 Representations, Certifications, and Other Statements of the Offeror (Oct 2014)

The Contractor's Representations, Certifications, and Other Statements, dated [Offeror Fill-In] made in response to Solicitation No. [Offeror Fill-In] are hereby incorporated into the Contract.

H.28 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.29 DOE-H-2058 Designation and Consent of Teaming Subcontracts – Alternate I (Oct 2014) (Revised)

- (a) The following subcontractors have been determined to be Teaming Subcontractors:

[Offeror Fill-In]

- (b) In the event that the Contractor plans either to award or use a new Teaming Subcontractor or replace an existing, approved Teaming Subcontractor 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.
- (c) In the event that the Contractor proposes to use a new, or replace, one or more of the approved Teaming Subcontractors identified in paragraph (a) above in performance of the Contract, the Contractor shall provide advance notification to, and obtain consent from the cognizant Contracting Officer notwithstanding any other terms and conditions of the Contract. Consent of these subcontracts is retained by the cognizant Contracting Officer and will not be delegated. The requirements of this paragraph (c) apply when the Contractor proposes the use of a new Teaming Subcontractor either prior to or subsequent to the award of the individual Task Order. The Contractor shall provide rationale and a detailed explanation including the equivalency or similarity of the experience and qualifications to the above listed Teaming Subcontractor and any other information requested by the cognizant Contracting Officer. Consent may be provided on a one time basis only and should not be construed as authorizing the use of the new Teaming Subcontractor on future Task Orders.

H.30 DOE-H-2059 Preservation of Antiquities, Wildlife, and Land Areas (Oct 2014)

- (a) Federal Law provides for the protection of antiquities located on land owned or controlled by the Government. Antiquities include Indian graves or campsites, relics and artifacts. The Contractor shall control the movements of its personnel and its subcontractor's personnel at the job site to ensure that any existing antiquities discovered thereon will not be disturbed or destroyed by such personnel. It shall be the duty of the Contractor to report to the Contracting Officer the existence of any antiquities so discovered.
- (b) The Contractor shall also preserve all vegetation (including wetlands) except where such vegetation must be removed for survey or construction purposes. Any removal of vegetation shall be in accordance with the terms of applicable habitat mitigation plans and permits. Furthermore, all wildlife must be protected consistent with programs approved by the Contracting Officer.
- (c) Except as required by or specifically provided for in other provisions of this contract, the Contractor shall not perform any excavations, earth borrow, preparation of borrow areas, or otherwise disturb the surface soils within the job site without the prior approval of DOE or its designee.

H.31 DOE-H-2061 Change Order Accounting (Oct 2014)

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

H.32 DOE-H-2063 Confidentiality of Information (Feb 2022) (Revised)

- (a) Performance of work under this Contract may result in the Contractor having access to Controlled Unclassified Information (CUI), via written or electronic documents, or by virtue of having access to DOE's electronic or other systems. Such CUI 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 CO.
- (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) These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employees obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General or the Office of Special Counsel of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.
- (d) The Contractor shall obtain a written agreement from each of its employees who are granted access to, or furnished with, CUI, 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 CO.
- (e) Upon request of the CO, the Contractor agrees to execute an agreement with any party which provides CUI to the Contractor pursuant to this Contract, or whose facilities the Contractor is given access to that restrict use and disclosure of CUI obtained by the Contractor. A copy of the agreement, which shall include all material aspects of this clause, shall be provided to the CO for approval.
- (f) Upon request of the CO, 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.

(g) The Contractor agrees to flow down this clause to all subcontracts issued under this Contract.

H.33 DOE-H-2064 Use of Information Technology Equipment, Software, and Third Party Services – Alternate I (Oct 2014)

- (a) Acquisition of Information Technology. The Government may provide information technology equipment, existing computer software (as described in 48 CFR 27.405), and third party services for the Contractor's use in the performance of the contract; and the Contracting Officer may provide guidance to the Contractor regarding usage of such equipment, software, and third party services. The Contractor is not authorized to acquire (lease or purchase) information technology equipment, existing computer software, or third party services at the Government's direct expense without prior written approval of the Contracting Officer. Should the Contractor propose to acquire information technology equipment, existing computer software, or third party services, the Contractor shall provide to the Contracting Officer justification for the need, including a complete description of the equipment, software or third party service to be acquired, and a lease versus purchase analysis if appropriate.
- (b) The Contractor shall immediately provide written notice to the Contracting Officer's Representative when an employee of the Contractor no longer requires access to the Government information technology systems.
- (c) The Contractor shall not violate any software licensing agreement, or cause the Government to violate any licensing agreement.
- (d) The Contractor agrees that its employees will not use, copy, disclose, modify, or reverse engineer existing computer software provided to it by the Government except as permitted by the license agreement or any other terms and conditions under which the software is made available to the Contractor.
- (e) If at any time during the performance of this Contract the Contractor has reason to believe that its utilization of Government furnished existing computer software may involve or result in a violation of the software licensing agreement, the Contractor shall promptly notify the Contracting Officer, in writing, of the pertinent facts and circumstances. Pending direction from the Contracting Officer, the Contractor shall continue performance of the work required under this Contract without utilizing the software.
- (f) The Contractor agrees to include the requirements of this clause in all subcontracts at any tier.
- (g) The Contractor shall comply with the requirements of those DOE directives, or parts thereof, identified in Section J, Attachment J-2, *Requirements Sources and Implementing Documents*, in implementing the requirements of this clause. The Contracting Officer, may, at any time, unilaterally amend this clause in order to add, modify or delete specific requirements.

H.34 DOE-H-2067 Government Furnished On-site Facilities or Services (Apr 2018)

- (a) Pursuant to the Government Property clause of this contract, the Government shall, during the period of performance of this contract, furnish to the Contractor office space for approximately 85 contractor personnel. Additional office space may be provided by the Government as necessary for contract performance. The Contractor shall not acquire or lease any office space without the prior written approval of the Contracting Officer.

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

H.35 DOE-H-2068 Conference Management (Mar 2023)

The Contractor agrees that:

- (a) The Contractor shall ensure that Contractor-sponsored conferences, and Contractor participation in DOE conferences sponsored by a Departmental Element, reflect the DOE/NNSA's commitment to fiscal responsibility, appropriate stewardship of taxpayer funds and support the mission of DOE/NNSA as well as other sponsors of work. In addition, the Contractor shall ensure its sponsored conferences do not include any activities that create the appearance of taxpayer funds being used in a questionable manner.
- (b) For the purposes of this clause, "conference" is first defined by the Federal Travel Regulation (FTR) as "[a] meeting, retreat, seminar, symposium, or event that involves attendee travel. The term 'conference' also applies to training activities that are considered to be conferences under 5 C.F.R 410.404." Additionally, the Department's conference activity reporting guideline expands the FTR conference definition to disregard attendee travel as a determining factor, i.e., reporting can be required without the existence of attendee travel.
- (c) Contractor-sponsored conferences include those events that meet the Department's expanded conference definition, and a DOE Contractor holds the role of primary decision-maker for key planning items such as conference theme, agenda, location/venue, dates, and conference participation.
- (d) Merely providing the Contractor's facility space for a conference, or Contractor staff participating in a conference, or procuring conference booth space, giving a speech, or serving as an honorary chairperson does not connote Contractor sponsorship.
- (e) The Contractor will provide information on conferences they plan to sponsor, when expected costs exceed \$100,000 in net costs to the Department, in the Department's Conference Management Tool (CMT), including:
 - (1) Conference title, description, and date
 - (2) Location and venue
 - (3) Description of any unusual expenses (e.g., promotional items)
 - (4) Description of contracting procedures used (e.g., competition for space/support)
 - (5) Costs for space, food/beverages, audio visual, travel/per diem, attendee registration costs
 - (6) Number of attendees
- (f) The Contractor will not expend funds on the proposed Contractor-sponsored conferences with expenditures estimated to exceed \$100,000 until notified of approval by the contracting officer and approved by the corresponding federal executive oversight entity.
- (g) For DOE-sponsored conferences (i.e., sponsored by a Departmental Element), the Contractor will not expend funds on the proposed conference that exceeds \$100,000 in net estimated DOE cost, until it is approved in the CMT by the management of the Departmental Element sponsoring the conference.

- (1) DOE-sponsored conferences include events that meet the Department's expanded conference definition, and a Departmental Element holds the role of primary decision-maker for key planning items such as conference theme, agenda, location/venue, dates and conference participation.
- (2) Merely providing Federal facility space for a conference, or Federal staff participating in a conference, or procuring conference booth space, giving a speech, or serving as an honorary chairperson does not connote DOE sponsorship.
- (3) The Contractor will provide cost and attendance information on their participation in all DOE-sponsored conferences in the DOE Conference Management Tool.
- (h) For conferences sponsored by a non-DOE external entity, the Contractor shall develop and implement a process to ensure costs related to such conferences are tracked, allowable, allocable, reasonable, and further the mission of DOE/NNSA.
- (i) Contractors are not required to enter participation or cost information on conferences sponsored by a non-DOE external entity in DOE'S Conference Management Tool.
 - (1)

H.36 DOE-H-2070 Key Personnel – Alternate I (Oct 2014) (Revised)

- (a) Pursuant to the clause DEAR 952.215-70 entitled, *Key Personnel*, the required key personnel for this Contract are identified below (Table H-1):

Name	Position
[Offeror Fill-In]	Program Manager
[Offeror Fill-In]	Security Manager
[Offeror Fill-In]	Project Integration Manager

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

- (1) Key personnel team requirements. The CO and designated COR(s) shall have direct access to the key personnel assigned to the Contract. All key personnel shall be assigned full-time to their respective positions and their permanent duty station within the local area of the site at which the work is to be performed. The Contractor shall notify the CO and request approval in writing at least 60 days in advance of any changes to key personnel.
- (2) No key person position shall remain vacant for a period more than 30 days following CO approval of a change in key personnel, or the Contractor will be subject to reduction of fee according to (c)(1) or (c)(2) below respective to the key position vacated.
- (3) Approval of changes to key personnel is at the unilateral discretion of the CO.
 - (4) The Key Personnel shall have a "Q" clearance level (or equivalent) at the time of their effective employment date in support of this Contract, or the ability to obtain such within 12 months of their effective employment date in support of this Contract (note that this deadline will be re-evaluated if there are delays determined to be beyond the control of the key person)..

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

- (1) Key personnel are considered “managerial personnel” under the clause DEAR 952.231-71 entitled, Insurance – Litigation and Claims.
- (2) For the purposes of this Clause, “Changes to Key Personnel,” is defined as: (i) any change to the position assignment of a current key person under the Contract, except for a person who acts for short periods of time, in the place of a key person during his or her absence, the total time of which shall not exceed 30 working days during any given year (ii) utilizing the services of a new substitute key person for assignment to the Contract beyond 30 working days; or (iii) assigning a current key person for work outside the Contract.
- (3) For the purposes of this Clause, “Beyond the Contractor’s Control,” is defined as an event for which the Contractor lacked legal authority or ability to prevent “Changes to Key Personnel.”

(c) Contract fee reductions for changes to Key Personnel.

Any key person change according to the definition for “Changes to Key Personnel” above shall be subject to reduction of fee according to (c)(1) or (c)(2) below respective to the key position vacated.

- (1) Notwithstanding the approval by the CO, any time the Program Manager is removed, replaced, or diverted within two years of being placed in the position, the earned fee under the Contract may be permanently reduced by \$50,000 for each and every such occurrence. A change to a key person “Beyond the Contractor’s Control” shall not result in a permanent reduction of fee under this subsection.
- (2) Notwithstanding the approval by the CO, any time a key person other than the Program Manager is removed, replaced, or diverted within two years of being placed in the position, the earned fee may be permanently reduced by \$25,000 for each and every such occurrence. A change to a key person, other than the Program Manager, “Beyond the Contractor’s Control” shall not result in a permanent reduction of fee under this subsection.
- (3) The Contractor may request in writing that the CO consider waiving all or part of a reduction in earned fee. Such written request shall include the Contractor’s basis for the removal, replacement, or diversion of any key personnel. The CO shall have the unilateral discretion to make the determination to waive all or part of the reduction in earned fee.

H.37 DOE-H-2071 Department of Energy Directives (Oct 2014)

- (a) In performing work under this contract, the Contractor shall comply with the requirements of those Department of Energy (DOE) directives, or parts thereof listed in Section J, Attachment J-2, *Requirements Sources 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 changes clauses in Section I of this Contract.
- (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.38 DOE-H-2072 Use of Government Vehicles by Contractor Employees (Oct 2014)

- (a) The Government will provide Government-owned and/or -leased motor vehicles for the Contractor's use in performance of this Contract in accordance with the clause FAR 52.245-1, *Government Property* and FAR 52.251-2, *Interagency Fleet Management System (IFMS) Vehicles and Related Services*.
- (b) The Contractor shall ensure that its employees use and operate Government-owned and/or -leased motor vehicles in a responsible and safe manner to include the following requirements:
 - (1) Use vehicles only for official purposes and solely in the performance of the Contract.
 - (2) Do not use vehicles for transportation between an employee's residence and place of employment unless authorized by the Contracting Officer.
 - (3) Comply with Federal, State and local laws and regulations for the operation of motor vehicles.
 - (4) Possess a valid State, District of Columbia, or commonwealth's operator license or permit for the type of vehicle to be operated.
 - (5) Operate vehicles in accordance with the operator's packet furnished with each vehicle.
 - (6) Use seat belts while operating or riding in a Government vehicle.
 - (7) Do not use tobacco products while operating or riding in a Government vehicle.
 - (8) Do not provide transportation to strangers or hitchhikers.
 - (9) Do not engage in "text messaging" while operating a Government vehicle, which includes those activities defined in the clause at FAR 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving.

- (10) In the event of an accident, provide information as may be required by State, county or municipal authorities and as directed by the Contracting Officer.
- (c) The Contractor shall-
 - (1) Establish and enforce suitable penalties against employees who use, or authorize the use of Government vehicles for unofficial purposes or for other than in the performance of the contract; and
 - (2) Pay any expenses or cost, without Government reimbursement, for using Government vehicles other than in the performance of the Contract.
- (d) The Contractor shall insert this clause in all subcontracts in which Government-owned and/or -leased vehicles are to be provided for use by subcontractor employees.

H.39 DOE-H-2075 Prohibition on Funding for Certain Nondisclosure Agreements (Oct 2014)

The Contractor agrees that:

- (a) No cost associated with implementation or enforcement of nondisclosure policies, forms or agreements shall be allowable under this Contract if such policies, forms or agreements do not contain the following provisions: "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to: (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling."
- (b) The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- (c) Notwithstanding the provisions of paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

H.40 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.

H.41 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 (see Section J, Attachment J-4, *Summary of Contract Deliverables*).
- (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.

H.42 DOE-H-2083 Safety Culture (Feb 2022)

The Contractor shall promote a strong safety culture which encourages safe performance of work and involvement of workers in all aspects of work performance and promotes core values that should be deeply, strongly, and consistently held by managers and workers. Contractor organizations shall foster that culture through proscribed contract actions designed to establish leadership commitment and behaviors consistent with those values; promoting a safety conscious work environment in which employees are encouraged to freely raise safety concerns to management without fear of retaliation; prioritizing concerns based on safety significance; addressing and resolving those concerns in a manner that provides transparency; and supporting a questioning attitude concerning safety by all employees.

- (a) The Contractor shall:
 - (1) Adopt and continuously improve Organizational Culture, Safety Culture, and SCWE, including implementation and utilization of programs/processes that support employees raising concerns without fear of retaliation. These programs/processes include, but are not

limited to, the Employee Concerns Program; the Differing Professional Opinions Process; Ethics and Compliance Program/Process; and Alternative Dispute Resolution.

- (2) Continuously promote a work environment where employees are encouraged to raise concerns. The Contractor shall define expectations, rigorously reinforce those expectations, and take actions to mitigate the potential for a chilling effect.
- (3) Conduct business in a manner fully transparent to DOE. Activities are demonstrated by open, clear, and well-communicated management actions and technical and project documentation. Identified issues and trends are proactively shared with DOE.
- (4) Champion programs which encourage a culture that promotes proactive self-identification and reporting of issues that identifies and takes action on systemic weaknesses leading to sustained continuous self-improvement.
- (5) Champion programs which encourage and emphasize the following safety culture attributes as described in DOE-G-450.4-1C ISM Guide, Attachment 10, "Safety Culture Focus Areas and Associated Attributes."
 - (i) Leadership
 - (A) Demonstrated safety leadership
 - (B) Risk-informed, conservative decision making
 - (C) Management engagement and time in the field
 - (D) Staff recruitment, selection, retention, and development
 - (E) Open communication and fostering an environment free from retribution
 - (F) Clear expectation and account
 - (ii) Employee/Worker Engagement
 - (A) Personal commitment to everyone's safety
 - (B) Teamwork and mutual respect
 - (C) Participation in work planning and improvement
 - (D) Mindfulness of hazards and controls
 - (iii) Organizational Learning
 - (A) Credibility, trust, and reporting errors and problems
 - (B) Effective resolution of reported problems
 - (C) Performance monitoring through multiple means
 - (D) Use of operations experience
 - (E) Questioning attitude

OTHER CLAUSES

H.43 Task Ordering Procedure (Revised) (Applies to IDIQ CLINs only)

- (a) A Task Order may be issued under this Master IDIQ Contract for any work scope covered by Section C, *Performance Work Statement*. Task Orders may be issued as Firm-Fixed-Price (FFP) or Cost-Reimbursement (CR).
- (b) All Task Orders shall be completed in accordance with the Contract requirements, in addition to the requirements as stated within the Task Order. In the event of a conflict between the Task Order and the Contractor's Task Order proposal, the Task Order shall prevail.
- (c) Prior to issuing a Task Order, the CO will provide the Contractor with a Request for Task Order Proposal (RTP) including, at a minimum, the following:
 - (1) A Task Order PWS providing the functional description/requirements of the work, deliverables, Government-furnished items (if any), and period of performance, as well as identifying the objectives or results required from the contemplated Task Order;
 - (2) Proposed performance standards to be used as criteria for determining whether the work requirements have been met;
 - (3) The requirements for the Contractor's Task Order proposal (see reference paragraph (f) below); and
 - (4) A response time for submitting the Task Order proposal.
- (d) Task Orders will be issued on forms specified and provided by the Government. Task Orders will be numbered. All Task Order modifications will be issued in writing on a Standard Form 30 and will be numbered sequentially.
- (e) If time constraints do not permit issuance of a fully defined Task Order in accordance with the procedures described in this clause, the CO may issue an undefinitized Task Order which includes a Not-To-Exceed ceiling cost/price for which all the terms and conditions will be subsequently negotiated and definitized at a later date. This will only apply in exceptional circumstances, and the Contractor shall support the definitization schedule established by the Government.
- (f) The Contractor's Task Order Proposals shall include the following, as applicable to individual Task Orders:
 - (1) Discussion of the technical approach for performing the work;
 - (2) Date of commencement of work and any necessary revision to the schedule of performance stipulated by the Government;
 - (3) A fragnet of the detailed resource-loaded schedule for that Task Order's scope of work. The Contractor shall also provide a copy of the Integrated Master Schedule showing the inclusion of the proposed Task Order's scope of work identifying the logic ties and dependencies between already contracted Task Order scopes of work and the new Task Order work scope. This IMS copy forms the basis for the Baseline Change Request (BCR) or Baseline Change Proposal (BCP) upon Task Order award. Both the schedule fragnet and the IMS schedules submitted as part of the Task Order proposal must meet EVMS requirements (including required task order baseline submission representing the cost, schedule, and entire scope over the period of performance of the associated task);

- (4) The Contractor shall submit Task Order proposals in accordance with FAR Part 15, Table 15-2 – Instructions for Submitting Cost/Price Proposals When Certified Cost or Pricing Data Are Required. If the value of the Task Order Proposal does not exceed the threshold for certified cost or pricing data, the CO may require information other than cost or pricing data, including information related to prices and cost that would otherwise be defined as cost or pricing data if certified. Information other than cost or pricing data may be submitted in the Contractor’s own format, unless the CO decides that use of a specific format is essential and the format has been described in the RTP;
 - (5) WBS Dictionary Sheets required to a WBS level to be determined post award by DOE (the WBS submittal shall include a data column which cross references the WBS elements at the lowest level to the appropriate Contract Line Item Number);
 - (6) Time-phased cost estimate at the WBS or Control Account level (to be determined by DOE);
 - (7) Basis of estimate at the WBS level or Control Account level (to be determined by DOE);
 - (8) Task Order proposals shall comply and be in accordance with FAR Part 31 – Contract Cost Principles and Procedures;
 - (9) Proposed deviations (if any) from the stated PWS requirements;
 - (10) Contractor’s proposed fee or profit, which must adhere to the criteria within DOE-B-2015 Task Order Fee/Profit Ceiling (Oct 2014) (Revised); and
 - (11) Any other information required to determine the reasonableness of the Contractor's proposal.
- (g) Reserved.
- (h) The Contractor’s Task Order proposal is subject to review and acceptance by the CO or their designee. The CO will either accept the terms and conditions of the Contractor’s Task Order proposal or negotiate any areas of disagreement with the Contractor. After review and any necessary discussions, the CO may issue a Task Order to the Contractor containing, as a minimum, the following:
- (1) Date of the order.
 - (2) Contract number and Task Order number.
 - (3) PWS identifying the objectives or results desired from the Task Order, including special instructions or other information necessary for performance of the work.
 - (4) Performance standards, and where appropriate, quality assurance standards.
 - (5) The Price of the Task Order (that is, as applicable, the Firm-Fixed-Price, Cost-Plus-Fixed-Fee, etc., as those terms are used in the Federal Acquisition Regulation), and the Maximum dollar amount authorized (total Task Order value).
 - (6) Any other resources (e.g., travel, material, equipment, facilities) authorized.
 - (7) Delivery/performance schedule including start and end dates.
 - (8) Accounting and appropriation data.

- (i) The Contractor shall provide acknowledgement to the CO of receipt of the Task Order (unilateral or bilateral) within three (3) business days after receipt.
- (j) The Contractor shall deliver all Task Order specific deliverables as stated in the Task Order.

H.44 Parent Organization Support

- (a) For onsite work, fee generally provides adequate compensation for parent organization expenses incurred in the general management of this Contract. The general construct of this Contract results in minimal parent organization investment (in terms of its own resources, such as labor, material, overhead, etc.) in the Contract work. DOE provides Government-owned facilities, property, and other needed resources.

Accordingly, allocations of parent organization expenses are unallowable for the prime Contractor, teaming subcontractors, and/or teaming partners, unless authorized by the CO in accordance with this Clause.

- (b) The Contractor may propose, or DOE may require, parent organization support to:
 - (1) Monitor safety and performance in the execution of Contract requirements;
 - (2) Ensure achievement of Contract environmental cleanup and closure commitments;
 - (3) Sustain excellence of Contract key personnel;
 - (4) Ensure effective internal processes and controls for disciplined Contract execution;
 - (5) Assess Contract performance and apply parent organization problem-solving resources on problem areas; and
 - (6) Provide other parent organization capabilities to facilitate Contract performance.
- (c) The CO may, with unilateral discretion, authorize parent organization support, and the corresponding indirect or direct costs, if a direct-benefit relationship to DOE is demonstrated. All parent organization support shall be authorized in advance by the CO.
- (d) If parent organization support is proposed by the Contractor or required by DOE, the Contractor shall submit for DOE review and approval, an annual Parent Organization Support Plan (POSP). The Contractor shall submit its initial POSP at least 30 days prior to:
 - (1) The end of the Contract Transition Period; or
 - (2) The commencement date of parent organization support proposed by the Contractor or required by the Government.

Any subsequent POSP shall be submitted at least 60 days prior to the start of each year of Contract performance.

H.45 Subcontractor Timekeeping Records Signature Requirement

The Contractor shall obtain timecards for all hourly subcontract employees, at all tiers, performing on non-fixed-price subcontracts. For purposes of this Clause, non-fixed-price subcontracts are those of a type containing a cost reimbursable or variable component in them, which includes those contract types covered by FAR Subpart 16.3, *Cost Reimbursement Contracts*, FAR Section 16.405, *Cost Reimbursement Incentive Contracts*. Note that the requirements of this Clause also pertain to Task Orders, tasks, and/or Contract Line Items

Numbers from Indefinite Delivery (see FAR Subpart 16.5, *Indefinite Delivery Contracts*) and hybrid contracts that are of a type covered by the FAR citations in the prior sentence. The timecards must be obtained by the Contractor prior to the Contractor paying for these subcontract costs and prior to billing DOE for these costs. The timecards must reflect actual hours worked, be signed by the subcontract employee and be certified by the subcontract employees' supervisor prior to the Contractor obtaining them. Subcontractors at all tiers performing work under non-fixed-price subcontracts shall maintain adequate timekeeping procedures, controls, and processes for billing Government work. The Contractor shall, at least once every three years, conduct a labor audit of non-fixed-price subcontracts. The audit shall be conducted to unmodified Institute of Internal Auditors standards, if conducted internally, or unmodified Generally Accepted Government Auditing Standards (GAGAS), if conducted externally. This Clause shall be flowed down to all non-fixed-price subcontracts at all tiers.

H.46 Laws, Regulations, and DOE Directives

- (a) In performing work under this Contract, the Contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. Section J, Attachment J-2, *Requirements Sources and Implementing Documents*, Applicable Federal, State and Local Regulations may be appended to this Contract for information purposes. Omission of any applicable law or regulation from the Contract does not affect the obligation of the Contractor to comply with such law or regulation pursuant to this paragraph.
- (b) In performing work under this Contract, the Contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, identified in the List of Applicable Directives (List B) appended to this Contract, until such time as the Contracting Officer approves the substitution of an alternative procedure, standard, system of oversight, or assessment mechanism.
- (c) Except as otherwise directed by the Contracting Officer, the Contractor shall procure all necessary permits or licenses required for the performance of work under this Contract.
- (d) Regardless of the performer of the work, the Contractor is responsible for compliance with the requirements of this clause. The Contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the Contractor's compliance with the requirements.

H.47 National Nuclear Security Administration / Environmental Management Strategic Sourcing Partnership

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

H.48 Legal Management

- (a) The Contractor shall maintain a legal function to support litigation, arbitration, environmental, procurement, employment, labor, and the Price Anderson Amendments Act

areas of law. The Contractor shall provide sound legal management practices. Within 60 days after the NTP, the Contractor shall provide a Legal Management Plan compliant with 10 CFR 719, *Contractor Legal Management Requirements*.

- (b) As required by the CO, the Contractor shall provide legal and related support to the Government on regulatory matters, third-party claims, and threatened or actual litigation. Support includes, but is not limited to case preparation, document retrieval, review and reproduction, witness preparation, expert witness testimony, and assistance with discovery or other information requests responsive to any legal proceeding.
- (c) When evaluating requests for reimbursement or allowability of Contractor costs associated with defense and/or settlement of legal claims brought against the Contractor by a third party:
 - (1) DOE will not reimburse Contractor legal defense costs or damages incurred where a judgment is issued finding that the Contractor engaged in discriminatory conduct prohibited by the terms of the Contract, such as those covered by FAR 52.222-26, *Equal Opportunity*; FAR 52.222-35, *Equal Opportunity for Veterans*; and FAR 52.222-36, *Equal Opportunity for Workers With Disabilities*.
 - (2) DOE will not reimburse the Contractor legal costs associated with a settlement agreement (including legal defense costs, settlement awards, or both) associated with legal claims brought against the Contractor by a third party relating to discriminatory conduct prohibited by the terms of the Contract, such as those covered by FAR 52.222-26, *Equal Opportunity*; FAR 52.222-35, *Equal Opportunity for Veterans*; and FAR 52.222-36, *Equal Opportunity for Workers with Disabilities*, where the CO determines that the plaintiff's claim(s) had more than very little likelihood of success on the merits. Where the plaintiff's claim had very little likelihood of success on the merits, the defense and settlement costs related to the claim are allowable if the costs are otherwise allowable under the Contract (e.g., reasonable, allocable).

H.49 Emergency Response

- (a) The DOE Office of Environmental Management (EM) Manager or Contractor shall determine when an emergency situation may exist at the Paducah Site and notify the appropriate emergency response organization. In the event of an emergency, the DOE Manager will have the authority to direct any and all activities of the Contractor and subcontractors necessary to resolve the emergency situation. Upon termination of the emergency event, the Contractor shall perform recovery actions as appropriate.
- (b) The Contractor shall include this clause in all subcontracts at any tier for work performed in support of the on-site work under this Contract.

H.50 Department of Energy National Training Center

The Contractor is encouraged to utilize the DOE National Training Center (NTC) training resources for occupational health, safety, safeguards, and security. NTC training is funded by DOE with no cost to the Contractor. NTC course offerings, information on NTC site certification, enrollment, and contact information can be found at <https://ntc.doe.gov>.

NTC training should be considered common core fundamental material. The Contractor may need to provide gap training to address site specifics identified through its approved Integrated

Safety Management Program and associated program plans required by existing DOE requirements. Gap training should not repeat fundamental training core content.

H.51 Management of Accountable Property

Accountable personal property is any property item with an original unit acquisition cost of \$10,000 or more; or meeting the precious metals, sensitive, or high-risk personal property definitions. Accountable property records must be managed and maintained current in a property management system of record from inception to formal disposition and removal from DOE inventory.

H.52 Information Technology and Cyber Security Requirements

In the performance of the information technology and cyber security requirements of this Contract, the Contractor is responsible for compliance with the following items. Consistent with Section H clause entitled Laws, Regulations, and DOE Directives, omission of any applicable law or regulation from this list does not affect the obligation of the Contractor to comply with such law or regulation.

(a) Code of Federal Regulations (CFR):

- (1) 10 CFR 824 et seq., Procedures Rules for the Assessment of Civil Penalties for Classified Information Security Violations
- (2) 10 CFR 1004 et seq., Freedom of Information Act
- (3) 36 CFR Chapter XII, Subchapter B et seq., Records Management
- (4) 41 CFR 102 et seq., Federal Management Regulation

(b) United States Code (USC):

- (1) 5 USC 552a et seq., Privacy Act
- (2) 6 USC 1 et seq., Homeland Security Organization
- (3) 6 USC 6 et seq., Cybersecurity
- (4) 15 USC Chapter 100 et seq., Cybersecurity Research and Development
- (5) 17 USC 1 § 101 et seq., Subject Matter and Scope of Copyright, Definitions
- (6) 18 USC 1030 et seq., Fraud and Related Activity in Connection with Computers
- (7) 18 USC Chapter 119 et seq., Wire and Electronic Communications Interception and Interception of Oral Communications
- (8) 18 USC Chapter 121 et seq., Stored Wire and Electronic Communications and Transactional Records Access
- (9) 29 USC 16, Subchapter V, 794 (d) et seq., Electronic and Information Technology
- (10) 31 USC § 501 et seq., Office of Management and Budget
- (11) 31 USC § 1101 et seq., The Budget and Fiscal, Budget, and Program Information; Definitions
- (12) 40 USC Subtitle III et seq., Information Technology Management

- (13) 41 USC Subtitle I, Division A, Chapter 1, Subchapter I, § 101 et seq., Federal Procurement Policy, Administrator
- (14) 44 USC 1 § 101 et seq., Joint Committee on Printing: Membership
- (15) 44 USC 21 et seq., National Archives and Records Administration
- (16) 44 USC 29 et seq., Records Management by the Archivist of the United States
- (17) 44 USC 31 et seq., Records Management by Federal Agencies
- (18) 44 USC 33 et seq., Disposal of Records
- (19) 44 USC 35 et seq., Coordination of Federal Information Policy
- (20) 44 USC 36 et seq., Management and Promotion of Electronic Government Services

(c) Executive Orders:

- (1) Executive Order 14117, Preventing Access to Americans' Bulk Sensitive Personal Data and United States Government-Related Data by Countries of Concern
- (2) Executive Order 14110, Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence
- (3) Executive Order 14105, Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern
- (4) Executive Order 14093, Prohibition on Use by the United States Government of Commercial Spyware That Poses Risks to National Security
- (5) Executive Order 14058, Transforming Federal Customer Experience and Service Delivery To Rebuild Trust in Government
- (6) Executive Order 14034, Protecting Americans' Sensitive Data from Foreign Adversaries
- (7) Executive Order 14028, Improving the Nation's Cybersecurity
- (8) Executive Order 13984, Taking Additional Steps to Address the National Emergency with Respect to Significant Malicious Cyber-Enabled Activities
- (9) Executive Order 13960, Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government
- (10) Executive Order 13873, Securing the Information and Communications Technology and Services Supply Chain
- (11) Executive Order 13870, America's Cybersecurity Workforce
- (12) Executive Order 13859, Maintaining American Leadership in Artificial Intelligence
- (13) Executive Order 13858, Strengthening Buy-American Preferences for Infrastructure Projects
- (14) Executive Order 13833, Enhancing the Effectiveness of Agency CIOs
- (15) Executive Order 13800, Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure
- (16) Executive Order 13702, Creating a National Strategic Computing Initiative

- (17) Executive Order 13691, Promoting Private Sector Cybersecurity Information Sharing
 - (18) Executive Order 13642, Making Open and Machine Readable the New Default for Government Information
 - (19) Executive Order 13636, Improving Critical Infrastructure Cybersecurity
 - (20) Executive Order 13589, Promoting Efficient Spending
 - (21) Executive Order 13587, Structural Reforms to Improve the Security of Classified Networks and the Responsible Sharing and Safeguarding of Classified Information
 - (22) Executive Order 13556, Controlled Unclassified Information
 - (23) Executive Order 13526, Classified National Security Information
 - (24) Executive Order 13231, Critical Infrastructure Protection in the Information Age, as amended by Executive Order 13284, Amendment of Executive Orders, and Other Actions, in Connection With the Establishment of the Department of Homeland Security; Executive Order 13286, Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security; Executive Order 13316, Continuance of Certain Federal Advisory Committees; Executive Order 13385, Continuance of Certain Federal Advisory Committees and Amendments to and Revocation of Other Executive Orders; and Executive Order 13652, Continuance Of Certain Federal Advisory Committees
 - (25) Executive Order 13218, 21st Century Workforce Initiative, as amended by Executive Order 13316, Continuance of Certain Federal Advisory Committees
 - (26) Executive Order 13103, Computer Software Piracy
 - (27) Executive Order 12958, Classified National Security Information E-Government, as amended by Executive Order 12958, Classified National Security Information
- (d) Office of Management and Budget (OMB) Circulars/Memoranda:
- (1) OMB Circular A-11, Preparation, Submission, and Execution of the Budget
 - (2) OMB Circular A-16, Coordination of Geographic Information, and Related Spatial Data Activities
 - (3) OMB Circular A-130, Managing Federal Information as a Strategic Resource
 - (4) OMB Memorandum M-24-10 Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence
 - (5) OMB Memorandum M-24-08, Strengthening Digital Accessibility and the Management of Section 508 of the Rehabilitation Act (digital)
 - (6) OMB Memorandum M-24-04, Fiscal Year 2024 Guidance on Federal Information Security and Privacy Management Requirements
 - (7) OMB Memorandum M-23-22, Delivering a Digital-First Public Experience
 - (8) OMB Memorandum M-23-18, Administration Cybersecurity Priorities for the FY 2025 Budget

- (9) OMB Memorandum M-23-16, Update to Memorandum M-22-18, Enhancing the Security of the Software Supply Chain through Secure Software Development Practices
- (10) OMB Memorandum M-23-13, “No TikTok on Government Devices” Implementation Guidance
- (11) OMB Memorandum M-23-10, The Registration and Use of .gov Domains in the Federal Government
- (12) OMB Memorandum M-23-07, Update to Transition to Electronic Records
- (13) OMB Memorandum M-23-02, Migrating to Post-Quantum Cryptography
- (14) OMB Memorandum M-22-18, Enhancing the Security of the Software Supply Chain through Secure Software Development Practices
- (15) OMB Memorandum M-22-16, Administration Cybersecurity Priorities for the FY 2024 Budget
- (16) OMB Memorandum M-22-09, Moving the U.S. Government Toward Zero Trust Cybersecurity Principles
- (17) OMB Memorandum M-22-01, Improving Detection of Cybersecurity Vulnerabilities and Incidents on Federal Government Systems through Endpoint Detection and Response
- (18) OMB Memorandum M-21-31, Improving the Federal Government’s Investigative and Remediation Capabilities Related to Cybersecurity Incidents
- (19) OMB Memorandum M-21-30, Protecting Critical Software Through Enhanced Security Measures
- (20) OMB Memorandum M-21-22, Update to Implementation of Performance Management Statutes
- (21) OMB Memorandum M-21-07, Completing the Transition to Internet Protocol Version 6 (IPv6)
- (22) OMB Memorandum M-21-06, Guidance for Regulation of Artificial Intelligence Applications
- (23) OMB Memorandum M-21-05, Extension of Data Center Optimization Initiative (DCOI)
- (24) OMB Memorandum M-21-04, Modernizing Access to and Consent for Disclosure of Records Subject to the Privacy Act
- (25) OMB Memorandum M-20-32, Improving Vulnerability Identification, Management, and Remediation
- (26) OMB Memorandum M-20-29, Research and Development Budget Priorities and Cross-cutting Actions
- (27) OMB Memorandum M-20-19, Harnessing Technology to Support Mission Continuity
- (28) OMB Memorandum M-19-26, Update to the Trusted Internet Connections (TIC) Initiative
- (29) OMB Memorandum M-19-21, Transition of Electronic Records

- (30) OMB Memorandum M-19-19, Update to Data Center Optimization Initiative
- (31) OMB Memorandum M-19-18, Federal Data Strategy – A Framework for Consistency
- (32) OMB Memorandum M-19-17, Enabling Mission Delivery through Improved Identity, Credential, and Access Management
- (33) OMB Memorandum M-19-16, Centralized Mission Support Capabilities for the Federal Government
- (34) OMB Memorandum M-19-10, Guidance for Achieving Interoperability with the National Freedom of Information Act (FOIA) Portal on FOIA.gov
- (35) OMB Memorandum M-19-03, Strengthening the Cybersecurity of Federal Agencies by enhancing the High Value Asset Program
- (36) OMB Memorandum M-18-12, Implementation of the Modernizing Government Technology Act
- (37) OMB Memorandum M-17-12, Preparing for and Responding to a Breach of Personally Identifiable Information
- (38) OMB Memorandum M-17-04, Additional Guidance for Data Act Implementation: Further Requirements for Reporting and Assuring Data Reliability
- (39) OMB Memorandum M-16-21, Federal Source Code Policy: Achieving Efficiency, Transparency, and Innovation through Reusable and Open Source Software
- (40) OMB Memorandum M-16-20, Category Management Policy 16-3: Improving the Acquisition and Management of Common Information Technology: Mobile Devices and Services
- (41) OMB Memorandum M-16-17, OMB Circular No. A-123, Management’s Responsibility for Enterprise Risk Management and Internal Control
- (42) OMB Memorandum M-16-16, 2016 Agency Open Government Plans
- (43) OMB Memorandum M-16-15, Federal Cybersecurity Workforce Strategy
- (44) OMB Memorandum M-16-14, Category Management Policy 16-2: Providing Comprehensive Identity Protection Services, Identity Monitoring, and Data Breach Response
- (45) OMB Memorandum M-16-12, Category Management Policy 16-1: Improving the Acquisition and Management of Common Information Technology: Software Licensing
- (46) OMB Memorandum M-16-04, Cybersecurity Strategy and Implementation Plan (CSIP) for the Federal Civilian Government
- (47) OMB Memorandum M-16-02, Category Management Policy 15-1: Improving the Acquisition and Management of Common Information Technology: Laptops and Desktops
- (48) OMB Memorandum M-15-14, Management and Oversight of Federal Information Technology

- (49) OMB Memorandum M-15-13, Policy to Require Secure Connections across Federal Websites and Web Services
- (50) OMB Memorandum M-15-12, Increasing Transparency of Federal Spending by Making Federal Spending Data Accessible, Searchable, and Reliable
- (51) OMB Memorandum M-13-13, Open Data Policy – Managing Information as an Asset
- (52) OMB Memorandum M-13-10, Antideficiency Act Implications of Certain Online Terms of Service Agreements
- (53) OMB Memorandum M-12-21, Addendum to OMB Memorandum M-98-13 on Federal Use of Energy Savings Performance Contracts (ESPCs) and Utility Energy Service Contracts (UESCs)
- (54) OMB Memorandum M-12-10, Implementing PortfolioStat
- (55) OMB Memorandum M-11-03, Issuance of OMB Circular A-16 Supplemental Guidance
- (56) OMB Memorandum M-10-27, Information Technology Investment Baseline Management Policy
- (57) OMB Memorandum M-10-26, Immediate Review of Financial Systems IT Projects
- (58) OMB Memorandum M-10-23, Guidance for Agency Use of Third-Party Websites and Applications
- (59) OMB Memorandum M-10-22, Guidance for Online Use of Web Measurement and Customization Technologies
- (60) OMB Memorandum M-10-10, Federal Agency Coordination on Health Information Technology (HIT)
- (61) OMB Memorandum M-10-06, Open Government Directive
- (62) OMB Memorandum M-08-15, Tools Available for Implementing Electronic Records Management
- (63) OMB Memorandum M-07-13, Implementation of the OMB Bulletin on Good Guidance Practices and Executive Order 13422 (amending Executive Order 12866)
- (64) OMB Memorandum M-05-24, Implementation of Homeland Security Presidential Directive (HSPD) 12 – Policy for a Common Identification Standard for Federal Employees and Contractors
- (65) OMB Memorandum M-05-23, Improving Information Technology (IT) Project Planning and Execution
- (66) OMB Memorandum M-05-22, Transition Planning for Internet Protocol Version 6 (IPv6)
- (67) OMB Memorandum M-04-24, Expanded Electronic Government (E-Gov) President’s Management Agenda (PMA) Scorecard Cost, Schedule and Performance Standard for Success
- (68) OMB Memorandum M-04-19, Information Technology (IT) Project Manager (PM) Qualification Guidance
- (69) OMB Memorandum M-04-16, Software Acquisition

- (70) OMB Memorandum M-04-15, Development of Homeland Security Presidential Directive (HSPD) – 7 Critical Infrastructure Protection Plans to Protect Federal Critical Infrastructures and Key Resources
- (71) OMB Memorandum M-04-08, Maximizing Use of SmartBuy and Avoiding Duplication of Agency Activities with the President’s 24 E-Gov Initiatives
- (72) OMB Memorandum M-04-04, E-Authentication Guidance
- (73) OMB Memorandum M-03-22, OMB Guidance for Implementing the Privacy Provisions of the E-Government Act of 2002
- (74) OMB Memorandum M-03-18, Implementation Guidance for the E-Government Act of 2002
- (75) OMB Memorandum M-03-17, Program Assessment Rating Tool (PART) Update
- (76) OMB Memorandum M-03-04, Determination Orders Organizing the Department of Homeland Security
- (77) OMB Memorandum M-02-15, Revision of OMB Circular A-16
- (78) OMB FedRAMP Memorandum, Security Authorization of Information Systems in Cloud Computing Environments
- (79) OMB Memorandum M-02-09, Reporting Instructions for the Government Information Security Reform Act and Updated Guidance on Security Plans of Action and Milestones
- (80) OMB Memorandum M-02-01, Guidance for Preparing and Submitting Security Plans of Action and Milestones
- (81) OMB Memorandum M-01-05, Guidance on Inter-Agency Sharing of Personal Data – Protecting Personal Privacy
- (82) OMB Memorandum M-00-15, Guidance on Implementation of the Electronic Signatures in Global and National Commerce Act (E-SIGN)
- (83) OMB Memorandum M-00-10, OMB Procedures and Guidance on Implementing the Government Paperwork Elimination Act
- (84) OMB Memorandum M-00-07, Incorporating and Funding Security in Information Systems Investments
- (85) OMB Memorandum M-99-18, Privacy Policies on Federal Web Sites
- (86) OMB Memorandum M-99-05, Instructions on Complying with President’s Memorandum of May 14, 1998, “Privacy and Personal Information in Federal Records”
- (87) OMB Memorandum M-98-13, Federal Use of Energy Savings Performance Contracting
- (88) OMB Memorandum M-98-09, Updated Guidance on Developing a Handbook for Individuals Seeking Access of Public Information
- (89) OMB Memorandum M-98-04, Annual Performance Plans Required by the Government Performance and Results Act (GPRA)
- (90) OMB Memorandum M-97-09, Interagency Support for Information Technology

- (91) OMB Memorandum M-97-07, Multiagency Contracts Under the Information Technology Management Reform Act of 1996
- (92) OMB Memorandum M-97-02, Funding Information Systems Investments
- (93) OMB Memorandum M-96-20, Implementation of the Information Technology Management Reform Act of 1996
- (e) Department of Homeland Security (DHS) Cybersecurity and Infrastructure Security Agency (CISA) Emergency and Binding Operational Directives
 - (1) DHS CISA ED 24-02: Mitigating the Significant Risk from Nation-State Compromise of Microsoft Corporate Email System
 - (2) DHS CISA Supplemental Direction V2: ED 24-01, Mitigate Ivanti Connect Secure and Ivanti Policy Secure Vulnerabilities
 - (3) DHS CISA Supplemental Direction V1: ED 24-01, Mitigate Ivanti Connect Secure and Ivanti Policy Secure Vulnerabilities
 - (4) DHS CISA ED 24-01, Mitigate Ivanti Connect Secure and Ivanti Policy Secure Vulnerabilities
 - (5) DHS CISA ED 22-03, Mitigate VMWare Vulnerabilities
 - (6) DHS CISA ED 21-04, Mitigate Windows Print Spooler Service Vulnerability
 - (7) DHS CISA ED 21-03, Mitigate Pulse Connect Secure Product Vulnerabilities
 - (8) DHS CISA ED 21-02, Mitigate Microsoft Exchange On-Premises Product Vulnerabilities
 - (9) DHS CISA ED 21-01, Mitigate SolarWinds Orion Code Compromise
 - (10) DHS CISA ED 20-04, Mitigate Netlogon Elevation of Privilege Vulnerability from August 2020 Patch Tuesday
 - (11) DHS CISA ED 20-03, Mitigate Windows DNS Server Vulnerability from July 2020 Patch Tuesday
 - (12) DHS CISA ED 20-02, Mitigate Windows Vulnerabilities from January 2020 Patch Tuesday
 - (13) DHS CISA ED 19-01, Mitigate DNS Infrastructure Tampering
 - (14) DHS CISA BOD 23-02, Mitigating the Risk from Internet-Exposed Management Interfaces
 - (15) DHS CISA BOD 23-01, Improving Asset Visibility and Vulnerability Detection on Federal Networks
 - (16) DHS CISA BOD 22-01, Reducing the Significant Risk of Known Exploited Vulnerabilities
 - (17) DHS CISA BOD 20-01, Develop and Publish a Vulnerability Disclosure Policy
 - (18) DHS CISA BOD 19-02, Vulnerability Remediation Requirements for Internet Accessible Systems

- (19) DHS CISA BOD 18-02, Securing High Value Assets
- (20) DHS CISA BOD 18-01, Enhance Email and Web Security
- (21) DHS CISA BOD 17-01, Removal of Kaspersky branded Products
- (22) DHS CISA BOD 16-03, 2016 Agency Cybersecurity Reporting Requirements
- (23) DHS CISA BOD 16-02, Threat to Network Infrastructure Devices

(f) Secretarial Memoranda

- (1) EXEC-2019-003477, Release of DOE Order 205.1C, Department of Energy Cybersecurity Program
- (2) EXEC-2018-004906, Integrated Joint Cybersecurity Coordination Center
- (3) EXEC-2018-001779, Data Center Optimization Initiative (DCOI) Inventory
- (4) EXEC-2016-003721, Information Technology Management Reforms
- (5) EXEC-2016-007461, DOE Cyber Data Sharing Implementation Requirements

(g) Office of Environmental Management (EM) Requirements:

- (1) DOE Enterprise Cybersecurity Program Plan v1.1
- (2) EM Cybersecurity Program Plan

H.53 Organizational Conflict of Interest - Affiliates

The prime Contractor, **[Offeror to insert name of Prime Contractor]** comprised of **[Offeror to insert names of partner companies]**, is responsible for the completion of all aspects of this Contract. In order to effectively and satisfactorily execute its responsibility to manage and accomplish the Contract work, the prime Contractor must have complete objectivity in its oversight and management of its subcontractors. Therefore, consistent with the principle contained in FAR subpart 9.5 and specifically Section 9.505(a), and notwithstanding any other provision of this Contract, the prime Contractor is, absent prior written consent from the CO as provided herein, prohibited from entering into a subcontract arrangement with any affiliate or any affiliate of its partners, or utilize any affiliate or affiliate of its partners, to perform work under a subcontract. Such contractual relationship(s) are presumed to create an impaired objectivity type conflict of interest. If the contractor believes the capabilities of an affiliate could be utilized in such a manner as to neutralize or avoid the existence of an organizational conflict of interest, the Contractor must obtain the CO's written consent prior to placing the subcontract.

For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.

H.54 PPPO Site Services and Interface Requirements Matrix

- (a) Controls. When services between PPPO prime contractors are executed, DOE does not expect the requesting contractor to review or otherwise validate top-level cross-cutting quality control, health, safety and/or environmental protection requirements mandated by the performing contractor's contract. The requesting contractor may assume that such contract requirements, are acceptable to DOE. The performing contractor shall provide products or services in a manner that is consistent with the requirements of the performing contractor's

contract and the task instructions provided by the requesting contractor. Special conditions required to meet the requesting contractor's requirements shall be documented through interface documents such as Memorandums of Agreement, Functional Service Agreements, Service Level Agreements, or Interface Control Documents.

- (b) Right of Access. PPPO contractors shall, with coordination and adequate preparation, allow service-providing contractors access to facilities to perform the service.
- (c) Nuclear Safety. The Contractor shall establish a protocol with each PPPO Site prime contractor identified in Section J, Attachment J-5, *PPPO Site Services and Interface Requirements Matrix*. This protocol shall establish the basis to perform contract work scope within a nuclear facility or perform work scope that affects the safety basis of a nuclear facility that is operated by the PPPO contractor who has responsibility for the nuclear facility.
 - (1) The protocol shall:
 - (i) Describe the general scope of work to be performed, flow down of nuclear safety requirements, and implementing processes and procedures prior to performing the work; and
 - (ii) Be signed by the performing contractor and concurred with by the other affected contractor.
 - (2) The service-providing contractor shall:
 - (i) Comply with all facility safety authorization basis and nuclear safety requirements that are established by the PPPO contractor responsible for the nuclear facility; and
 - (ii) Flow down to each subcontractor (in accordance with DEAR 970.5223-1, *Integration of Environment, Safety and Health into Work Planning and Execution*), the protocol to comply with all facility safety authorization basis and nuclear safety requirements that are established by the contractor responsible for the nuclear facility.
- (d) Payment for Services: If the Contractor enters into a service agreement with other DOE PPPO prime contractors, the Contractor shall pay or be paid for services received or performed in accordance with approved financial accounting systems and notify the DOE CO.
- (e) Responsibility for Delivery of Service. The Government makes no guarantees or warranties regarding the delivery of services, and services between contractors shall not constitute GFS&I. The Government shall not be held responsible for the delivery or non-delivery of services between PPPO contractors. Contractors shall attempt to resolve any disputes regarding service interfaces and the provision of services among themselves. If contractors are unable to achieve a timely resolution of issues between themselves regarding interfaces or the appropriate delivery of services, contractors may seek direction from the DOE CO. DOE shall be the exclusive authority for resolving disputes associated with any interface issues that cannot be resolved between parties in a timely manner. To the extent contractors attempt to litigate disputes between themselves regarding interfaces or the appropriate delivery of services, all costs associated with such litigation shall be unallowable under this Contract.
- (f) Paducah ISS Contractor services are not commercial services. Likewise, services provided by other site contractors, including are not commercial services. Unless specified otherwise by the CO, all services (see Section J, Attachment J-5, *PPPO Site Services and Interface*

Requirements Matrix) including all Information Technology and Management Services, are unique to the Paducah Site, and are not “commercial services” as defined by FAR 2.101. The Contractor shall not perform or arrange for the performance of these services by means of any process reserved for the acquisition of commercial services without first receiving written approval from the DOE CO expressly stating that a particular service to be acquired meets the FAR 2.101 definition of a “commercial service.”

H.55 Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA)

- (a) The EEOICPA establishes a program to provide compensation to current and former employees of the Department of Energy (DOE), its contractors and subcontractors, companies that provided beryllium to DOE, and atomic weapons employers (AWEs). Under EEOICPA, the DOE has a requirement to verify employment histories, provide medical records, and provide radiation dose records and other information pertinent to National Institute for Occupational Safety and Health (NIOSH) radiation dose reconstruction and Department of Labor (DOL) Subtitle B and Subtitle E case preparation for anyone who applies for compensation under EEOICPA. DOE’s responsibilities are implemented by the site with proper federal oversight with the budgetary, and programmatic direction assigned to the Office of Environment, Health, Safety and Security (AU-14).
- (b) The Contractor shall establish a program and respond to the requirements of the EEOICPA for their employees and activities, which includes but is not limited to:
 - (1) Perform the work necessary to complete EE-5 Employment Verification Forms requested by DOL for the EEOICPA Subtitle B program;
 - (2) Perform the work necessary to provide Personnel Exposure information requested by NIOSH as part of the EEOICPA Subtitle B program;
 - (3) Perform the work necessary to complete Document Acquisition Requests (DARs) submitted by DOL for the EEOICPA Subtitle E program;
 - (4) Perform the work necessary to provide Visitor Personnel Exposure or information requested as part of the EEOICPA program;
 - (5) Perform other necessary EEOICPA related records work, as needed, including responding to records requests and site visits related to site characterization and hazard assessment work by DOL and NIOSH;
 - (6) Maintain local records to track the activities conducted under EEOICPA; The Contractor shall conduct the following work tasks within 60 days from receipt of request in support of the EEOICPA:
 - (7) Perform the work necessary to complete Employment Verifications requested by DOL for the EEOICPA Subtitle B program:
 - (i) Research and retrieve records needed to complete claims forms;
 - (ii) If necessary, work with corporate entities or unions to verify employment of former site workers;
 - (iii) Complete all necessary claims forms associated with the request;

(iv) Complete declassification, as needed, of records required for the processing of claims forms;

(v) Completed forms, along with any attachments, shall be electronically submitted to DOL through the Secure Electronic Records Transfer (SERT) OR through encrypted email to DOE HQ;

(vi) Perform the work necessary to provide personnel exposure information requested by NIOSH as part of the EEOICPA Subtitle B program:

(A) Research and retrieve records needed to complete claims forms;

(B) Complete declassification, as needed, of records required for the processing of claims form;

(C) Complete and sign off on all necessary claims forms associated with the request;

(D) Completed forms and records shall be electronically submitted to NIOSH;

(vii) Perform the work necessary to complete Document Acquisition Requests (DARs) submitted by DOL as part of the EEOICPA Subtitle E program:

(A) Research and retrieve records needed to complete claims forms;

(B) Complete declassification, as needed, of records required for the processing of claims;

(C) Complete and sign off on all necessary claims forms associated with the request;

(D) Completed forms and records shall be electronically submitted to DOL through the Secure Electronic Records Transfer (SERT) OR through encrypted email to DOE HQ;

(viii) Perform the work necessary to provide Additional Personnel Exposure Information or Visitor Personnel Exposure Information requested by Oak Ridge Associated Universities (ORAU; contractor to NIOSH) as part of the EEOICPA Subtitle B program:

(A) Research and retrieve records needed to complete claims forms;

(B) Complete declassification, as needed, of records required for the processing of claims form;

(C) Complete and sign off on all necessary claims forms associated with the request;

(D) Completed forms and records shall be electronically submitted to ORAU;

(ix) The Contractor shall respond to any other inquiries and perform special projects as required by the EEOICPA;

(x) Maintain local records to track the activities under EEOICPA. These records shall be used to report status in the Contractor's Monthly Progress Report. Categories to be reported include the following:

(A) DOL-Employment Verification;

- (B) Exposure Data;
 - (C) NIOSH – Requests;
 - (D) NIOSH – Supplemental Data Request;
 - (E) DAR Requests;
 - (F) DOE Exposure Requests;
- (xi) Information to be reported for the above categories includes the following:
- (A) Outstanding requests at beginning of reporting period;
 - (B) Outstanding requests at end of reporting period;
 - (C) Requests received during the reporting period;
 - (D) Requests completed during reporting period;
 - (E) Total hours;
 - (F) Total cost.

H.56 Environmental Compliance

- (a) General. The Contractor is required to comply with permits, consent decrees, administrative orders and settlement agreements between the DOE and federal and state regulatory agencies.
- (b) Environmental Permits. This Clause addresses three permit scenarios, where the Contractor is the sole permittee; where the Contractor and DOE are joint permittees; and where multiple contractors are permittees.
- (1) Contractor as Sole Permittee. To the extent permitted by law and subject to other applicable provisions of the Contract that impose responsibilities on DOE, and provisions of law that impose responsibilities on DOE or third parties, the Contractor shall be responsible for obtaining in its own name, shall sign, and shall be solely responsible for compliance with all permits, authorizations and approvals from federal, state, and local regulatory agencies which are necessary for the performance of the work required of the Contractor under this Contract.
- Under this permit scenario, the Contractor shall make no commitments or set precedents that are detrimental to DOE or other site contractors. The Contractor shall coordinate its permitting activities with DOE, and with other contractors which may be affected by the permit or any precedent established therein, prior to taking the permit action. Whenever reasonably possible, all such materials shall be provided to DOE and other affected site contractors not later than 90 days prior to the date they are to be submitted to the relevant regulatory agency. Any such schedule revision shall be effective only upon approval from the CO.
- (2) DOE as Permittee, or Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE will sign permits as permittee, or as owner or as owner/operator with the Contractor as operator or co-operator, respectively. DOE will co-sign hazardous waste permit applications as owner/operator where required by applicable law. In this scenario, the Contractor shall

coordinate its actions with DOE. DOE is responsible for timely notification to the Contractor of any issues or changes in the regulatory environment that impact or may impact contractor implementation of any permit requirement. The Contractor shall be responsible for timely notification to DOE of any issues or changes in the regulatory environment that impact or may impact contractor implementation of any permit requirement. Notification by the Contractor to DOE may be initially verbal with written documentation fully explaining the impact and the reason/rationale for the impact and possible consequences. Whenever reasonably possible all such materials shall be provided to DOE not later than 90 days prior to the date they are to be submitted to the regulatory agency.

- (3) Multiple Contractors as Permittees. Where appropriate, in situations where multiple contractors are operators or co-operators of operations requiring environmental permits, DOE will sign such permits as owner or co-operator and affected contractors shall sign as operators, or co-operators. In this scenario, the Contractor shall coordinate as appropriate with DOE and contractors affected by the permit.
- (c) Permit Applications. The Contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials necessary to be submitted to regulatory agencies for the purposes of obtaining a permit. Whenever reasonably possible all such materials shall be provided to DOE initially not later than 90 days prior to the date they are to be submitted to the regulatory agency. The Contractor shall normally provide final regulatory documents to DOE at least 30 days prior to the date of submittal to the regulatory agencies for DOE's final review and signature or concurrence. Special circumstances may require permits to be submitted in a shorter timeframe. As soon as the Contractor is aware of any such special circumstance, the Contractor shall provide notice to DOE as to the timeframe in which the documents will be submitted to DOE. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature, schedules for environmental permit applications or other regulatory materials covered by this Clause. Any such requests shall be submitted 30 days before such material would ordinarily be required to be provided to DOE. Any such schedule revision shall be effective only upon approval from the CO.
- (d) Copies, Technical Information. The Contractor shall provide DOE copies of all environmental permits, authorizations, and regulatory approvals issued to the Contractor by the regulatory agencies. DOE will, upon request, make available to the Contractor access to copies of environmental permits, authorizations, and approvals issued by the regulatory agencies to DOE that the Contractor may need to comply with under applicable law. The Contractor shall and DOE will provide to each other copies of all documentation, such as letters, reports, or other such materials transmitted either to or from regulatory agencies relating to the Contract work. The Contractor and DOE shall maintain all necessary technical information and regulatory analysis required to support applications for revision of DOE or other Site contractor environmental permits when such regulatory analysis, applications or revisions are related to the Contractor's operations. Upon request, the Contractor or DOE shall provide to the other party access to all necessary and available technical information required to support applications for or revisions to permits or permit applications. Unless specific text is required by the regulation or permit, the Contractor shall provide to DOE a

certification statement relating to such technical information in the form required by the following paragraph.

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

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.

Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

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

- (f) Termination, Expiration, Permit Transfer. In the event of expiration or termination of this Contract, DOE may require the Contractor to take all necessary steps to transfer some or all environmental permits held by the Contractor. DOE will assume responsibility for such permits, with the approval of the regulating agency, and the Contractor shall be relieved of all liability and responsibility to the extent that such liability and responsibility results from the acts or omissions of a successor Contractor, DOE, or their agents, representatives, or assigns. The Contractor shall remain liable for all unresolved costs, claims, demands, fines, and penalties, including reasonable legal costs, arising prior to the date such permits are transferred to another party. The Contractor shall not be liable for any such claims occurring after formal transfer unless said claims result from the Contractor's action or inaction that occurred prior to transfer.
- (g) Miscellaneous. The Contractor shall accept assignment or transfer of permits pertaining to matters under this Contract currently held by DOE and its existing Contractor. The Contractor may submit for DOE's consideration requests for alternate review, comment, or signature schedules for environmental permit applications or other regulatory materials covered by this Clause. Any such schedule revision shall be effective only upon written approval from the CO.

H.57 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 on trust, dedication to common goals, and an understanding and respect of each other's expectations and values. The process creates a team building 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 Corp of Engineers has championed partnering and their guidelines will be utilized in organizing partnering meetings and establishing a partnering agreement.

H.58 Real Property Asset Management

H.58.1 General Requirements

- (a) The Contractor shall manage real property in a safe, secure, cost-effective, and sustainable manner to ensure compliance with DOE O 4301.C, *Real Property Asset Management* applicable guidelines, protocols, procedures, processes, and the requirements in this Contract. The Contractor shall ensure real property assets are available, utilized, and in a suitable condition to support efficient mission execution. Where specific guidance is not given, the Contractor has latitude to accomplish the required outcomes via its most cost effective and efficient processes.
- (b) The Contractor shall apply industry leading practices, voluntary consensus standards, and customary commercial practices where practicable to ensure all actions involving planning, acquisition, sustainment, and disposition of interests in real property are effectively managed and compliant.
- (c) The Contractor shall maintain, in a complete and current condition, all real estate records for the Site.
- (d) To ensure sustainability activities are consistent with requirements dictated by statutory, regulatory, and other DOE and EM policies, the Contractor shall align real property planning with DOE strategic plans, the Asset Management Plan and other program guidance to include:
 - (1) Applicable requirements related and not limited to sustainability; environment, health, safety and security; earthquake risks; cultural and natural resource preservation; historic preservation; and climate change resilience, adaptation, and sustainability are addressed;
 - (2) General purpose infrastructure and programmatic requirements;
 - (3) Real property needs of site tenants;
 - (4) Surveillance and maintenance and long-term stewardship (LTS) resource requirements;
 - (5) The identification of the mission and core capability associated with all real property;
 - (6) The determination of the optimum set of facilities and infrastructure needed to maintain each applicable core capability; and
 - (7) Perform comprehensive energy and water assessments for each operating covered facility at least once during any four-year period per Energy Independence and Security Act (EISA) requirements.
- (e) Planning:

The Contractor shall ensure all actions involving planning, acquisition, sustainment, and disposition of real estate and real property assets are reviewed, and approved by an authorized Certified Realty Specialist (CRS), as appropriate, prior to execution by a DOE official with real estate delegation authority, to include termination or modification of rights of ownership, possession, entry or use of real property, even if these types of actions are contained within other documents, per Memorandum of *Supplemental Real Estate Guidance to Clarify Types of Agreements that are Real Estate Actions, and Approval of Real Estate Provisions of Multi-Subject Agreements*, dated January 2021. The Contractor shall submit all real estate proposals to acquire, utilize, and dispose of real property assets to the Site assigned DOE CRS, through the Site Assigned Real Property Officer (RPO) for review and approval. Real estate actions, subsequent to CRS review and approval, shall be executed at the appropriate level of delegated real estate authority, such as authority possessed by a Real Estate Contracting Officer (RECO).

Based on DOE-furnished program planning guidance, and in coordination with the Site RPO and CRS, the Contractor must annually prepare and submit, a Five-Year Site Plan (5YSP) (see Section J, Attachment J-4, *Summary of Contract Deliverables*) to identify financial investments for acquisition, sustainment, and disposition of real property assets to support DOE strategic plans, program guidance, and Departmental performance targets, for DOE review and approval, to include, but not limited to, the following:

- (1) Assessment of the current real property assets against program mission projections.
- (2) Identification of the specific real property asset projects and activities required to meet program mission projections.
- (3) Support EM's baseline plans for planning, acquisition, sustainment, and disposition of real property, OSFs, excess facilities, and excess contaminated facilities as required by DOE O 430.1C, *Real Property Asset Management*.
- (4) Prioritized list of real property acquisition, sustainment, and disposition activities and projects;
- (5) Results of annual utilization surveys, energy and water surveys;
- (6) Summary of changes and the annual totals of real property acquisition and disposition building footprint;
- (7) The reduction and/or consolidation of space, specifically addressing space policy, program benchmarks for space utilization, and space assignment and utilization standards;
- (8) Remaining service life;
- (9) Identification of prioritized financial investments in real property; and
- (10) Support DOE in the development of the IFI Crosscut budget in accordance with guidance issued jointly by the Office of Management and Office of the Chief Financial Officer.
- (11) Ensure applicable requirements related and not limited to, adaptation, and sustainability; environment, health, safety and security; earthquake and other natural hazards risks; cultural and natural resource preservation; historic preservation; and climate change resilience are addressed;

- (12) Identify general purpose infrastructure and programmatic requirements;
 - (13) Define real property needs of site tenants;
 - (14) Identify surveillance and maintenance, and long-term stewardship (LTS) resource requirements;
 - (15) Ensure that mission and core capabilities are defined for all real property;
 - (16) Determine the optimum set of facilities and infrastructure needed to maintain each applicable core capability
 - (17) Assess the real property portfolio against delineated program mission requirements by core capability at least every five years. More frequent reassessments are required if mission requirements change, the core capability assigned to an asset changes, the asset is repurposed, or there are major changes to the asset’s physical condition or use.
- (f) **Performance Measures and Reporting:** The Contractor is responsible and accountable for any real property under its management and control in developing real property asset performance measures commensurate with their assigned duties and responsibilities, including:
- (1) Proposing performance measures annually;
 - (2) Proposing performance measures that link performance of program goals and budgets to desired outcomes; and
 - (3) Proposing annual performance targets for real property assets.
 - (4) The Contractor shall support DOE in providing and maintaining data in *Integrated Planning Accounting and Budgeting System (IPABS)*, the *IPL*, and the *IFI Crosscut* with high quality data inputs and timeliness of data to support EM decision-making without the need for requesting data updates on a regular basis.
- DOE retains sole performance measure authority and will establish and approve all performance measures, and set expected performance outputs and outcomes in annual direction and guidance.
- (g) **Facilities Information Management System (FIMS):** The Contractor shall maintain FIMS data and records, which are DOE’s corporate real property inventory database for all lands, buildings, trailers, other structures and facilities, and real property in which DOE holds a legal interest in, or right to use, consisting of approximately 165 data elements to ensure the following:
- (1) Keep FIMS data elements current, adhering to and in compliance with the most current DOE “FIMS User’s Guide”, and annual FIMS “Reporting Deadlines and Validation Guidance” requirements;
 - (i) Ensure FIMS data is obtained in compliance with FIMS User’s Guide, Appendix I. Data Gathering Methods, to establish minimum criteria for gathering the cost (actual or estimated), measurement, or assessment data reported.
 - (2) Keep FIMS data fields current throughout the real property asset lifecycle and align with the FIMS Data Dictionary;

- (3) Keep FIMS data consistent across DOE to enable comparable reporting and trend analyses;
- (4) Use FIMS data to meet FRPP requirements and the Department’s DM and other real property reporting requirements including, but not limited to, the Agency’s yearly financial statement;
- (5) Keep Real property records supporting FIMS data (source documentation) maintained;
- (6) Record annually the results of Asset Condition Assessment Survey (ACAS), Functional Assessments, and real property utilization assessments in FIMS or the DOE Condition Assessment Information System (CAIS).
- (7) Coordinate Records management changes resulting in revisions to the FIMS User’s Guide through appropriate governance;
- (8) Archive FIMS information regarding real property assets that have been disposed of, including all related institutional controls; and
- (9) Develop a completion report or equivalent document for each disposition project and include in FIMS ensuring the completion report/document describes, at a minimum, project activities, final facility status, cost information, and verification and validation that specific end-point criteria have been met.

The Contractor shall annually confirm a 90% or better confidence level of FIMS data accuracy, in accordance with the FIMS User Guide, and annually provided FIMS “Reporting Deadlines and Validation Guidance” requirements and take all actions necessary to correct identified discrepancies using an DOE approved corrective action plan for FIMS Validation score of “Red”.

H.58.2 Acquisition of Real Property Assets

The Contractor shall support DOE, as requested, in any of the following activities:

- (a) Ensure that prior to requesting Federal approval, real property acquisitions are supported by a mission need, a business case analysis, a current utilization survey, and life-cycle cost alternatives analysis;
- (b) Ensure construction or renovation of existing DOE-owned buildings above 5,000 gross square feet meet federal sustainability guiding principles and building efficiency requirements;
- (c) Ensure new solicitations for DOE-leased buildings above 10,000 rentable square feet meet building efficiency, performance, and management requirements;
- (d) Ensure facilities regardless of ownership comply with applicable federal metering requirements;
- (e) Ensure newly constructed or leased building area, regardless of ownership, with a predominant use of office or warehouse is offset by building area of an equivalent or greater size; and
- (f) Ensure newly constructed, renovated, or leased building area designated for office is reviewed and approved by a CRS to ensure use does not exceed the Department’s office

space design standard, an average of 180 square feet of usable area per person, regardless of predominant use of the building.

- (g) Ensure all real property regardless of acquisition method are reported in the FIMS Anticipated Asset Information Module at least five (5) years prior to beneficial occupancy.
- (h) Contractor Leases: A Contractor Lease is real property leased by the Contractor to perform work for DOE, and the cost of the lease rent is reimbursed under the DOE contract.
 - (1) The Contractor shall obtain approval by the DOE Contracting Officer (CO) for a Contractor Lease
 - (2) The Contractor shall obtain prior approval by the CRS for a Contractor Lease.
 - (i) When requesting approval from the CRS, the Contractor should provide a *Preliminary Real Estate Plan (PREP)* (see Attachment J-4, *Summary of Contract Deliverables*), or other documentation acceptable to the CRS, and must contain the following information and documentation:
 - (A) Identify the need to lease space, the amount of space required, and specific location or delineated area.
 - (B) Confirm that no Government-controlled space is available for use.
 - (C) Explain the reason for the selected delineated area (especially if it is something other than the central business district).
 - (D) Define the type, size and specific requirements of space needed.
 - (E) Provide evidence that competition was sought and describe the method used (i.e., adequate advertisement to potential interested parties).
 - (F) Document that a request for lease proposals was issued, and to whom.
 - (G) Results of the market survey.
 - (H) Disseminate, collect, and review responses to the request for proposals.
 - (I) Documentation that negotiations were conducted based on proposals received.
 - (J) Identify the Lessor of choice based on the acceptable offer (i.e., lowest price per square foot or the offer that is most beneficial to the Government). Include a cost analysis (table) of terms and options, which identifies costs per usable square foot and total costs.
 - (K) Describe the process used to obtain market data, such as a market survey or formal appraisal by a licensed appraiser, and resulting determination of fair market value.
 - (L) Lease Language:
 - No termination clause requiring notice longer than 365 days.
 - Negotiate the best deal with the shortest term, or earliest termination date, possible.
 - Include provisions allowing reassignment of the lease to a successor contractor or DOE.

(M) For Leadership in Energy and Environmental Design (LEED) Certification, the Contractor should demonstrate that effort was made to acquire LEED facilities. When soliciting space, the Contractor should indicate that a preference for LEED certified facilities will be given during the review of proposals. The DOE preference is the LEED Silver level or higher. Documentation of the effort to acquire LEED space through the advertisement and solicitation process should be provided within the Justification/Background narrative of the documentation submitted for CRS review and approval.

(N) If a contractor believes it is in the best interest of the Government not to use a competitive process for a leasing action, then a sole-source procurement may be allowable, but only with prior approval of the CRS. In such cases, the Contractor should:

(O) Prepare a sole-source justification to demonstrate that a non-competitive procurement is in the best interest of the Government, as opposed to advertising an expression of interest and issuing a request for lease proposals.

(P) Provide the DOE CRS (in advance), via the CO, with a sole-source justification for approval, prior to beginning negotiations with the potential lessor.

(Q) Present a narrative justification that includes associated cost analysis information specific to the stated need, while also including market survey information specific to the space requirement.

(R) Conduct a market survey to identify any space(s) that may satisfy the requirement.

(S) Requirements for the acquisition of real property by lease will still apply, except those specific to competition and advertising.

H.58.3 Disposition of Real Property Assets

When DOE identifies that a program mission or facility is no longer required, the Contractor must initiate preparation of affected real property assets for disposition, including potential reuse for other missions (such as economic redevelopment or reuse). Disposition activities must be consistent with the guiding principles and core functions of the Department's integrated safety management and facility disposition policies. To prepare for disposition, the Contractor must do the following:

- (a) In accordance with FPMR 101-47.2, and DOE 430.1c, conduct annual utilization surveys of all assigned real property assets to identify real property that may be declared excess and reported for disposal (see Attachment J-4, *Summary of Contract Deliverables*).
- (b) Identify real property assets that are likely to be declared as excess in a 10-year planning horizon and the anticipated year of excess. This information must be included in FIMS per the FY 2017 Guidance for Evaluating the Department of Energy's Excess Facilities, Revision 1, March 13, 2017.
- (c) Develop a disposition baseline, including costs to disposition at the facility level, to assess and prepare the facility for disposition. Also costs for the maintenance, surveillance, repair,

and any operations must also be reported in FIMS per the FY 2017 Excess Contaminated Facilities Working Group (ECFWG) Guidance.

- (d) Technical, programmatic, and regulatory information is to be used in the disposition preparation and planning process. The disposition baseline must include the following information:
- (1) Surveillance and maintenance requirements needed to ensure the real property asset, including its systems, and stored hazardous materials and waste remain in a stable and known condition and that adequate protection is provided to the workers, the public, and the environment pending disposition.
 - (2) Identification and characterization of hazardous and radioactive materials, waste, and hazardous conditions of the real property asset.
 - (3) Assessment and adjustment of the facility authorization basis, as necessary, to reflect conditions and activities pending disposition.
 - (4) Develop a disposition plan that identifies, assesses, and evaluates alternatives and integrates environmental, safety, and health requirements into disposition activities. The disposition plan should be tailored based on the disposition baseline and disposal method to be used (e.g., reuse, demolition, or decommissioning). The disposition plan shall contain a level of detail for what is going to be done, and how/when it will be done to ensure that scope, cost and schedule are reasonable and achievable based on the plan (see Attachment J-4, List of Deliverables).
 - (i) Identify excess real property that is appropriate for economic development and, if any such property is identified, annually make a list of property available to potentially-interested parties.
 - (ii) Determine whether to dispose of real property by sale or lease in accordance with 10 CFR Part 770, or to dispose of it through other processes.
 - (iii) Notify DOE Headquarters organizations (Office of General Counsel, Office of Management, Office of the Chief Financial Officer, and EM) a minimum of 90 days before any disposal by sale or lease out-grant made under DOE authorities.
 - (iv) Long term stewardship (LTS) and future land use considerations must also be considered when performing disposition planning. LTS is the primary responsibility of the Office of Legacy Management (LM), and contractors shall ensure that efforts and plans are coordinated and integrated with LM's requirements and policies.
 - (v) Support DOE in updating FIMS data fields during real property asset disposition (e.g., identified as excess, transferred to another program office, placed into inactive status, dismantled, or placed in LTS), and archive information regarding real property assets that have been disposed and add all real property related institutional controls to FIMS.
 - (vi) Adhere to Site protocols, if developed, or EMCBC Management System Description.

- (h) Excess Asset/Facility Management: Contractors responsible for disposition of excess assets or facilities shall:
- (1) Identify to DOE real property assets that are needed or no longer needed to meet mission needs;
 - (2) Track annual costs for maintenance, repair and upkeep, at the asset level, for maintaining excess facilities once the asset is declared excess until final disposition and report this value in FIMS;
 - (3) Provide estimated final disposition or decommissioning costs for all excess assets and any assets expected to be excessed in the next 10 years (at the asset level) and report that cost in FIMS per the annual “Guidance for Evaluating the Department of Energy’s Excess Facilities”, ensuring these costs are consistent with data in the EM IPABS Planning Module;
 - (4) Assist DOE to screen real property assets in accordance with federal laws, regulations, and the Department’s internal process for screening real property assets prior to declaration of excess;
 - (5) Identify to DOE excess real property that is appropriate for economic development and, if any such property is identified, annually list property available to potentially-interested parties within the 5YSP;
 - (6) Record planned disposition of real property assets in FIMS, as well as in 5YSP;
 - (7) Assist DOE to determine whether to dispose of real property by sale or lease in accordance with 10 CFR Part 770, or to dispose of it through other processes;
 - (8) Ensure physical controls, institutional controls, and other mechanisms to protect the workers, public and the environment are in place while performing disposition activities;
 - (9) Assist DOE to dispose of unneeded real property assets declared excess to mission needs using demolition, sale, economic development, lease termination, interagency transfer, or other DOE-approved methods;
 - (10) Assist DOE to perform real estate actions for out-grants in accordance with applicable environmental laws, regulations, and DOE directives, including:
 - (i) Lease out-grants under the authority in 42 U.S. Code § 7256, commonly referred to as the “Hall Amendment”, must comply with the Joint DOE/Environmental Protection Agency Interim Policy Statement on Leasing, dated June 30, 1998;
 - (ii) Out-grants of excess property may be made if disposal by sale is not practical;
 - (iii) Out-grants of non-excess property may be made if the out-grant does not conflict with DOE missions; and
 - (iv) Out-grants by lease for economic development are subject to the Congressional notification requirements.
 - (11) Assist DOE in completing the transfer of excess real property assets in accordance with applicable Departmental directives, including prior written consent from the receiving entity; and

- (12) Assist DOE in disposing of excess contaminated real property assets in accordance with applicable Departmental directives and federal laws and regulations.

H.58.4 Sustainment of Real Property Assets

Contractor shall establish a cost-effective *Sustainment Program* (see Attachment J-4, *Summary of Contract Deliverables*) to keep existing operational, excess, and those facilities transitioning from operational to shut down in an acceptable safe and stable condition, functional, or sustainable in support of its current operational status or mission. Contractor sustainment program must include:

- (a) A systematic management process for planning and budgeting for known future cyclical maintenance, repair, and renovation requirements for major building components or infrastructure systems.
- (b) A mechanism to track direct and indirect funded expenditures for maintenance and repair and renovation at the asset level.
- (c) The Contractor shall support DOE, as requested, in any of the following activities:
 - (1) Maintain real property assets, including the mechanical and electrical systems that are installed as part of basic building construction and are essential to the normal functioning of the facility, in a condition suitable for its intended use;
 - (2) Establish a Maintenance Management Program that promotes operational and worker safety, public health, environmental compliance, and cost effectiveness while meeting the program missions;
 - (3) Develop five-year forecast (by fiscal year) as part of the 5YSP and update annually to identify financial investments for sustainment of real property assets to support DOE strategic plans, program guidance, and Departmental performance targets. Include consideration for desired level of service, remaining service life, current Asset Condition Assessment Surveys (ACAS), EISA energy and water evaluations, utilizations surveys, the mission dependency of the asset, and projected funding for DM reduction. The EISA assessments for each operating covered facility must be performed at least once during any four-year period;
 - (4) Report asset level annual required maintenance in FIMS for the upcoming fiscal year, including the estimated fully burdened costs of predictive and preventive maintenance and repair activities; and
 - (5) Conduct tailored Asset Condition Assessment Survey (ACAS) for each real property asset assigned, to determine the need for preventive or remedial action, using industry standard graded approaches tailored to the inspection type and frequency that aligns with asset ownership, use, and mission dependency as follows:
 - (i) Perform physical Asset Condition Assessment Survey (ACAS) on each real property asset (including operational and excess facilities) at least once every five-year period or other risk-based interval as approved by EM;
 - (ii) Perform more frequent assessments for real property assets (including operational and excess facilities) identified as mission unique or critical, or assets that pose an

- increased risk to life safety or the environment, or as mandated by federal, state or local codes;
- (iii) Determine the current physical condition of each real property asset, its estimated time to failure, and the optimum period for repairs and replacement based on engineering and maintenance analyses;
 - (iv) Estimate the costs to correct deficiencies identified during the ACAS using the DOE Condition Assessment Information System (CAIS) or another nationally recognized cost estimating system that is formatted in UNIFORMAT II and based on annually updated unit cost data (e.g., RS Means; Building News; Craftsman Book Company; Richardson General Construction Estimating Standards). Cost estimates must be updated annually and include Contractor indirect costs;
 - (v) Categorize all deficiencies noted in the physical asset condition assessments as Repair Needs (RN). The review each of those repair needs and determine which of those repair needs should also be categorized as Deferred Maintenance (DM); and
 - (vi) Regardless of the extent of tailoring (in schedule, scope and comprehensiveness) the Contractor must maintain a high degree of confidence in their real-time understanding of facility conditions and risks and ensure that EM Field Office Managers are in concurrence with their risk acceptance perspectives.
- (6) Perform a Functional Assessment of each operating real property asset to identify what is missing that is keeping the asset from fully supporting its mission requirement (or from doing so in a practical, efficient, or safe manner). The estimated cost to perform these functional upgrades represents the asset's Modernization Cost. This assessment should be performed at least once during any five-year period or other risk-based interval as approved by the cognizant PSO based on industry leading practices, voluntary consensus standards, and customary commercial practices;
- (7) Recommission covered facilities at least once during any four-year period, tailored to the size and complexity of the building and its systems and components, to optimize and verify performance of existing systems; and
- (8) Record annually the results of ACAS and Functional Assessments in the CAIS. Record the Real property utilization assessments in FIMS.

H.58.5 Maintenance of Real Property Assets

The Contractor shall provide all maintenance necessary to ensure safe and cost-effective operation of facilities and equipment in order to meet current and future mission requirements utilizing best practices.

The Contractor shall manage the total work effort associated with the maintenance required for all designated property to meet the performance objectives and standards as described in this Contract. Such management shall include planning, scheduling, report preparation, establishing and maintaining records, and quality assurance.

The Contractor shall provide new or factory reconditioned parts and components when providing maintenance, repair, and minor improvements as described herein. Exception to this is where it is acceptable industry practice to utilize recycle or reuse material for construction or infrastructure

(e.g. relay rail, crushed concrete, etc.). All replacement units, parts, components and materials to be used in the maintenance, repair, and construction of facilities and equipment shall be compatible with that existing equipment on which it is to be used; shall be of equal or better quality than original equipment specifications; shall comply with applicable Government, commercial, or industrial standards. The Contractor may utilize standards adopted by DOE Technical Standards Program as indicated in *DOE Technical Standards Program, Appendix B, Non-Government Standards Adopted* by DOE or State or local codes, as applicable.

The Contractor shall schedule and perform work so as not to cause interference with normal business operations. In those cases where some interference is unavoidable, the Contractor shall make every effort to minimize the impact of the interference.

Warranty Maintenance. The Contractor shall exercise manufacturers' commercial warranties on Government equipment on the Government's behalf. The Contractor shall report any difficulty in exercising manufacturers' warranties to the Government and request assistance as necessary. It is the Contractor's responsibility to correct equipment deficiencies, regardless of the manufacturers' actions. If the manufacturer fails to honor the warranty, it shall not relieve the Contractor of this responsibility.

The Contractor shall develop a comprehensive Preventative Maintenance (PM) program for assigned buildings, structures, and installed equipment. The PM program shall be developed from applicable original equipment manufacturer manuals, inspection checklists, manufacturer's standards, industry standards, and commercial guides, as applicable. The Contractor shall identify and/or develop maintenance standards and procedures for each building and subsystem, structures, and installed equipment to their individual component level. The maintenance standards and procedures shall be readily accessible to DOE in the Computerized Maintenance Management System (CMMS).

The Contractor shall develop and implement a compliant *Maintenance Management Program* (see Attachment J-4, *List of Deliverables*) to ensure real property assets are maintained in a manner that promotes operational and worker safety, public health, environmental compliance, and cost-effectiveness while meeting the program missions using a balanced approach that not only sustains the assets, but also provides for their safe upkeep while awaiting ultimate disposition for EM excess facilities. The Maintenance Management Program that will include the following:

- (a) Technical and management processes to align the performance, functional, and physical attributes of real property facilities, structures, systems, and components in the maintenance program with associated requirements, design, and operational information,
- (b) Processes established for all hazard category 1, 2, and 3 nuclear facilities must comply with applicable DOE standards;
- (c) For other facilities, voluntary consensus standards, including American National Standards Institute/Electronic Industries Alliance (ANSI/EIA) – 649, National Consensus Standard for Configuration Management or DOE standards must be applied as determined by the responsible DOE element to comply with applicable DOE maintenance management directives, such as DOE O 433.1, *Maintenance Management Program for DOE Nuclear Facilities* in addition to the maintenance requirements of this Order;

- (d) Ensures real property asset availability for planned use or disposition using preventive and predictive maintenance and repairs;
- (e) Includes Asset Condition Assessment Surveys (ACAS) of the real property assets;
- (f) A work control system, management of DM, a method to prioritize, and systems to budget and track all maintenance expenditures (including DM, RN, etc.);
 - (1) Identification of 5-year maintenance and repair requirements (sustainment) and funding for DM reduction;
 - (2) DM estimates, similar to deficiency estimates and RN, will be based on nationally recognized cost estimating systems such as the DOE CAIS, or other nationally recognized cost estimating systems that are formatted in UNIFORMAT II and based on annually updated unit cost data (e.g. RS Means; Building News; Craftsman Book Company; Richardson General Construction Estimating Standards). DM Cost estimates must be updated annually and include Contractor indirect costs.
- (g) A CMMS that includes;
 - (1) Preventative/Scheduled/Warranty Work;
 - (2) a master equipment list;
 - (3) maintenance service levels;
 - (4) A method to determine for each asset the minimum acceptable level of condition; methods for categorizing deficiencies as DM;
 - (5) Management of the DM backlog;
 - (6) A method to prioritize maintenance work.

H.58.6 Sustainability of Real Property Assets

Environmental Sustainability - The Contractor shall develop and support development of commitments to identify its respective contribution toward meeting the Department's sustainability goals. The Contractor shall coordinate with each site lead coordinating contractor to prepare and submit the *Site Sustainability Plan* (see Attachment J-4, *Summary of Contract Deliverables*) in accordance with DOE O 436.1 *Departmental Sustainability* and EO 13834, *Efficient Federal Operations*. The Contractor shall periodically assess its adherence to DOE and Executive Orders for implementing a Sustainability Program.

The Contractor shall ensure sustainability activities are consistent with requirements dictated by statutory, regulatory, and other DOE and EM policies. The Contractor shall align real property planning with DOE strategic plans, the Asset Management Plan and program guidance to include:

- (a) Applicable requirements related and not limited to sustainability; environment, health, safety and security; earthquake risks; cultural and natural resource preservation; historic preservation; and climate change resilience, adaptation, and sustainability are addressed;
- (b) General purpose infrastructure and programmatic requirements;
- (c) Real property needs of site tenants;
- (d) Surveillance and maintenance and long-term stewardship (LTS) resource requirements;

- (e) The identification of the mission and core capability associated with all real property;
- (f) The determination of the optimum set of facilities and infrastructure needed to maintain each applicable core capability; and
- (g) Perform comprehensive energy and water assessments for each operating covered facility at least once during any four-year period per EISA requirements.

Environmental Management System (EMS) - The Contractor shall develop an *EMS Plan* (see Attachment J-4, List of Deliverables) and submit to DOE for approval. The EMS Plan shall be prepared in accordance with DOE O 436.1 *Departmental Sustainability* and ISO 14001, Environmental Management and implemented for all work being performed. The Contractor shall periodically assess their compliance with the plan.

H.59 Regional Purchasing Program

The Contract work scope will have an impact on the local economies, to include the Western Kentucky (WK) area (defined to be McCracken, Ballard, Graves, and Marshall Counties in Kentucky, and Massac County in Illinois).

For future subcontracting opportunities (including renewal of existing subcontracts), the Contractor shall review the scopes of work to determine how best to meet mission requirements, while taking the local economy and the local business communities into consideration. The following principles and practices are geared toward supplier development by helping build the capability, competency, and capacity of the local business communities to enable them to provide competitive goods and services to the Contractor and improve their ability to serve other customers locally, regionally, and nationally. These principles and practices will be implemented by incorporation into the acquisition policies and procedures (i.e. Acquisition Procedures), as appropriate.

- (a) Business alliances. The Contractor shall conduct business alliances with regional vendors. These alliances may include training and mentoring programs to enable regional vendors to compete effectively for subcontracts and purchase orders and/or assistance with the development of business systems (accounting, budget, payroll, property, etc.), to enable regional vendors to meet the audit and reporting requirements of the Contractor and DOE. These alliances may also serve to encourage the formation of regional trade associations, which will better enable regional businesses to satisfy the Contractor's needs.

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

- (b) WK purchasing preferences. The Contractor will maximize procurement opportunities for WK (defined as McCracken, Ballard, Graves, and Marshall Counties in Kentucky, and Massac County in Illinois) businesses whenever possible.

WK are businesses that are actively engaged in doing business, have an operative business location, and uses labor from WK. To meet these requirements, a business must be able to demonstrate, if and when requested, through submission of gross receipts tax and unemployment compensation tax forms or otherwise, that for the calendar year preceding the submission of its bid/offer:

- (1) It has been properly authorized to do business and has been operating in WK with a staff of three or more full time equivalent employees (of which 51% must reside in WK), and that it currently has a facility in WK that can support the business activity contemplated by the Statement of Work / Scope of Work; or
- (2) It has historically operated in WK with two or less full time equivalent employees who reside in WK, it is independently owned (i.e., its owner(s) exercise(s) close control over operations and decisions which are not subject to control or the power to control by others), its majority ownership interest is held by residents of WK, it has been properly authorized to do business in Paducah Area Community Reuse Organization (PACRO) and it currently has a facility in WK that can support the business activity contemplated by the Statement of Work / Scope of Work.

In accordance with its Small Business Subcontracting Plan, the Contractor shall give preference to WK small businesses for competitive acquisitions by adding a 5% adjustment factor to the total evaluated price of those qualified suppliers whose businesses do not meet the definition of a WK small business concern. This pricing preference will be flowed down via subcontract clauses in subcontracts and purchase orders with a value of \$5 million or greater. Subcontractors and suppliers with such subcontracts and purchase orders will be required to report achievements on a semi-annual basis to their Contractor Procurement Specialist.

- (c) Assistance. The Contractor shall make prospective regional suppliers aware of sponsored supplier forums aimed at focused training on proposed EM requirements, forecasted opportunities, and how best to prepare themselves to compete on procurements.
- (d) Measuring Program Success. Program success will ultimately be measured by regional economic indicators, including the number of companies positively impacted via the pricing preference, new services acquired via subcontract as opposed to performed in-house, customer/stakeholder surveys and other program impacts that bring about economic diversification. The Contractor will measure the following:
 - (1) number of times a WK small business is solicited,
 - (2) number of times a WK small business responds to a solicitation,
 - (3) the number of times a WK small business is solicited, responds and is successful based on the pricing preference, and
 - (4) the number of times a WK small business is solicited, is responsive and awarded a purchase order/subcontract without the pricing preference playing a factor.

Costs (direct or indirect) incurred by the Contractor in performing these activities are allowable and reimbursable, to the extent authorized under this Contract.