

PART I - THE SCHEDULE**SECTION H - SPECIAL CONTRACT REQUIREMENTS****TABLE OF CONTENTS**

<u>SECTION</u>	<u>Page</u>
H-1 ACCESS TO DOE-OWNED OR LEASED FACILITIES	1
H-2 ACCOUNTING FOR PERFORMING ENTITY	2
H-3 APPLICATION OF DOE CONTRACTOR REQUIREMENTS DOCUMENTS	2
H-4 APPLICATION OF SERVICE CONTRACT ACT of 1965 (41 U.S.C. 351) TO THE PERFORMING ENTITY	4
H-5 ASSUMPTION OF EXISTING AGREEMENTS AND SUBCONTRACTS.....	4
H-6 COMPLIANCE WITH INTERNET PROTOCOL, VERSION 6 (IPv6), IN ACQUIRING INFORMATION TECHNOLOGY (IT).....	4
H-7 CONFIDENTIALITY OF INFORMATION	5
H-8 CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATION(S) AND FINES AND PENALTIES	5
H-9 RESERVED	6
H-10 DEFENSE NUCLEAR FACILITIES SAFETY BOARD (DNFSB)	6
H-11 DISCRIMINATION IN EMPLOYMENT.....	6
H-12 DISPOSITION OF INTELLECTUAL PROPERTY – FAILURE TO COMPLETE.....	7
H-13 ELECTRONIC SUBCONTRACTING REPORTING SYSTEM (DOE ACQUISITION LETTER 2006-01 DATED 10/27/05)	7
H-14 EMPLOYEE COMPENSATION: PAY AND BENEFITS	8
H-15 EMPLOYEE CONCERNS PROGRAM	14
H-16 ENVIRONMENT, SAFETY, AND HEALTH (ES&H)	14
H-17 ENVIRONMENTAL JUSTICE	15
H-18 ENVIRONMENTAL PERMITS AND APPLICATIONS	15
H-19 GOVERNMENT-OWNED PROPERTY AND EQUIPMENT	16
H-20 HOME OFFICE EXPENSES.....	17
H-21 LABOR RELATIONS	17
H-22 LITIGATION MANAGEMENT PROCEDURES.....	18
H-23 LOBBYING RESTRICTIONS	18
H-24 NUCLEAR MATERIAL FACILITY OPERATIONS	18
H-25 OPEN COMPETITION AND LABOR RELATIONS IN MANAGEMENT AND OPERATING AND OTHER MAJOR FACILITIES CONTRACTS (DEC 2002)	19
H-26 ORGANIZATIONAL CONFLICT OF INTEREST MANAGEMENT PLAN	20
H-27 PERFORMANCE BASED MANAGEMENT AND OVERSIGHT	21
H-28 PERFORMANCE-BASED INCENTIVES	21
H-29 PERFORMANCE GUARANTEE.....	23
H-30 PERFORMANCE/TECHNICAL DIRECTION.....	23

<u>SECTION</u>	<u>Page</u>
H-31 PRESERVATION OF ANTIQUITIES, WILDLIFE AND LAND AREAS	25
H-32 PRIVACY ACT SYSTEMS OF RECORDS (SOR)	26
H-33 PROVISIONAL PAYMENT OF INCENTIVE FEE	27
H-34 QUALITY ASSURANCE SYSTEM	27
H-35 RECOGNITION OF PERFORMING ENTITY	27
H-36 REPORTING REQUIREMENTS (For NNSA Reporting)	28
H-37 REPRESENTATIONS AND CERTIFICATIONS	29
H-38 RESPONSIBLE CORPORATE OFFICIAL	30
H-39 RIGHTS TO SUBCONTRACTOR PROPOSAL DATA.....	30
H-40 SEGREGATION OF COSTS.....	30
H-41 SEPARATE CORPORATE ENTITY	31
H-42 SMALL BUSINESS SUBCONTRACTING PLAN	31
H-43 SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT.....	31
H-44 STOP WORK AND SHUT DOWN AUTHORITY - ENVIRONMENT, SAFETY AND HEALTH.....	31
H-45 SUBCONTRACTOR SELECTION.....	32
H-46 SUBCONTRACTS	33
H-47 SUPPORT TO OTHER SITE CONTRACTORS	33
H-48 THIRD PARTIES	34
H-49 TRANSITION ACTIVITIES	34
H-50 TRANSITION TO FOLLOW-ON CONTRACT	35
H-51 TYPE OF CONTRACT	36
H-52 UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (UCNI)	36
H-53 WITHDRAWAL OF WORK	36
H-54 WORK AUTHORIZATION SYSTEM.....	37
H-55 WORK FOR OTHERS	39
H-56 WORKERS' COMPENSATION INSURANCE	39
H-57 WORKFORCE TRANSITION (ALTERNATE 1)	40
H-58 POST CONTRACT RESPONSIBILITIES FOR PENSION AND OTHER BENEFIT PROGRAMS.....	41

PART I - THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

H-1 ACCESS TO DOE-OWNED OR LEASED FACILITIES

- (a) The performance of this contract requires that employees of the Contractor have physical access to DOE-owned or leased facilities. The Contractor understands and agrees that DOE has a prescribed process with which the Contractor and its employees must comply in order to receive a security badge that allows such physical access. The Contractor shall propose employees whose background offers the best prospect of obtaining a security badge approval for access. This clause does not control requirements for an employee obtaining a security clearance.
- (b) The Contractor shall assure:
- Compliance with procedures established by DOE in providing its employees with any forms directed by DOE;
 - Employees properly complete any forms;
 - Employees submit the forms to the person designated by the CO;
 - Employees cooperate with DOE officials responsible for granting access to DOE-owned or leased facilities; and
 - Employees provide additional information requested by those DOE officials.
- (c) The Contractor understands and agrees that DOE may unilaterally deny a security badge to an employee and that the denial remains effective for that employee unless DOE subsequently determines that access may be granted. Upon notice from DOE that an employee's application for a security badge is or will be denied, the Contractor shall promptly identify and submit the appropriate forms for the substitute employee. The denial of a security badge to individual employees by DOE shall not be cause for extension of the period of performance of this Contract or any contractor claim against DOE.
- (d) The Contractor shall return to the CO, or designee, the badge(s) or other credential(s) provided by DOE pursuant to this clause, granting physical access to DOE-owned or leased facilities by the Contractor's employee(s) upon:
- Termination of this Contract;
 - Expiration of this Contract;
 - Termination of employment on this Contract by an individual employee; or
 - Demand by DOE for return of the badge.

- (e) The Contractor shall include this clause, including this paragraph (e), in any subcontract, awarded in the performance of this Contract, in which an employee(s) of the subcontractor will require physical access to DOE-owned or leased facilities.

H-2 ACCOUNTING FOR PERFORMING ENTITY

All financial data and planning of the entities comprising the performing entity, as identified below, shall be provided for at the same level of detail required of the prime Contractor. All actual financial data shall be included with the prime Contractor's input to the Financial Information System by the dates established by DOE. Actual manpower data will also be reported in a form and manner acceptable to DOE.

H-3 APPLICATION OF DOE CONTRACTOR REQUIREMENTS DOCUMENTS

- (a) Performance. The Contractor will perform the work of this Contract in accordance with each of the Contractor Requirements Documents (CRDs) appended to this Contract as "Appendix E," until such time as the CO approves the substitution of an alternative procedure, standard, system of oversight, or assessment mechanism resulting from the process described below.
- (b) Laws and Regulations Excepted. The process described in this clause shall not affect the application of otherwise applicable laws and regulations of the United States, including regulations of DOE.
- (c) Deviation Processes in Existing Orders. This clause does not preclude the use of deviation processes provided for in existing DOE directives.
- (d) Proposal of Alternative. The Chief Executive Officer of the Contractor may, at any time during performance of this Contract, propose an alternative procedure, standard, system of oversight, or assessment mechanism to the requirements in a listed CRD by submitting to the CO a signed proposal describing the nature and scope to the alternative benefits, including any cost benefits, to be realized in the Contractor in performance under the Contract, and a schedule for implementation of the alternate. In addition, the Contractor shall include an assurance signed by the official that the revised alternative is an adequate and efficient means to meet the objectives underlying the CRD. Upon request, the contractor shall promptly provide the CO any additional information that will aid in evaluating the Contractor's proposal.
- (e) Action of the Contracting Officer. The CO shall, within sixty (60) days:
 - (1) deny application of the proposed alternative;
 - (2) approve the proposed alternative, with conditions or revisions;

- (3) approve the proposed alternative; or
- (4) provide a date by which a decision will be made (not to exceed an additional 60 days).
- (f) Implementation and Evaluation of Performance. Upon approval in accordance with (e)(2) or (e)(3) above, the contractor shall implement the alternative. In the case of a conditional approval under (e)(3) above, the Contractor shall provide the CO with an assurance statement, signed by the Contractor's designated official, that the revised alternative is an adequate and efficient means to meet the objectives underlying the CRD. Additionally, the statement shall describe any changes to the schedule for implementation. The contractor shall then implement the revised alternative. DOE will evaluate performance of the approved alternative from the date scheduled by the Contractor for implementation.
- (g) Application of Additional or Modified CRDs. During performance of the Contract, the CO may notify the Contractor that he or she intends to unilaterally add CRDs to those listed in Appendix E or modifications to listed CRDs. Upon receipt of that notice, the Contractor, within thirty (30) calendar days, may, in accordance with paragraph (d) of this clause, propose an alternative procedure, standard, system of oversight, or assessment mechanism. The resolution of such a proposal shall be in accordance with the process set out in paragraphs (e) and (f) of this clause. If an alternative proposal is not submitted by the Contractor within the thirty (30) calendar-day period, or, if made, is denied by the CO under paragraph (e), the CO may unilaterally add the CRD or modification to Appendix E. The Contractor and the CO shall identify and, if appropriate, agree to any changes to other Contract terms and conditions, including cost and schedule, resulting from the addition of the CRD or modification. Revisions to List B as referred to in the Laws, Regulations, and DOE Directives clause shall be processed in accordance with process set forth in the DOE-approved S/RID. The Contractor may propose changes to the S/RID process.
- (h) Deficiency and Remedial Action. If, during performance of this Contract, the CO determines that an alternative procedure, standard, system of oversight, or assessment mechanism adopted through the operation of this clause is not satisfactory, the CO may, in his or her sole discretion, determine that corrective action is necessary and require the Contractor to prepare a corrective action plan for the CO's approval. If the CO is not satisfied with the corrective action taken, the CO may direct corrective action to remedy the deficiency, including, if appropriate, the reinstatement of the CRD.

H-4 APPLICATION OF SERVICE CONTRACT ACT OF 1965 (41 U.S.C. 351) TO THE PERFORMING ENTITY

The Service Contract Act of 1965 is not applicable to this contract. However, in accordance with Clause DEAR 970.5244-1 – CONTRACTOR PURCHASING SYSTEM (MAY 2006) subcontracts awarded by the Contractor are subject to the Act to the same extent and under the same conditions as contracts awarded by DOE. The Contractor and the CO shall develop a procedure whereby DOE will determine if the Service Contract Act is applicable to particular subcontracts. In cases determined to be covered by the Service Contract Act, the Contractor shall prepare SF-98 and 98A “Notice of Intention to Make a Service Contract” and forward it to the CO or his designee to obtain a wage determination.

H-5 ASSUMPTION OF EXISTING AGREEMENTS AND SUBCONTRACTS

- (a) Existing contractual agreements entered into by the predecessor contractor will be assumed by the Contractor upon the effective date of assumption of full responsibility under this contract. The contractual agreements shall include all (1) subcontracts and purchase orders; (2) agreements with domestic and foreign research organizations; (3) agreements with universities and colleges; and (4) any other similar agreements.
- (b) The terms and conditions of these contractual agreements, as they exist when assumed, shall remain in full force and effect unless modified by the Contractor and the vendor/subcontractor.

H-6 COMPLIANCE WITH INTERNET PROTOCOL, VERSION 6 (IPv6), IN ACQUIRING INFORMATION TECHNOLOGY (IT)

- (a) This contract may involve the acquisition of IT that uses Internet Protocol (IP) technology. The Contractor agrees that (1) all deliverables that involve IT that use IP (products, services, software, etc.) will comply with IPv6 standards and interoperate with both IPv6 and IPv4 systems and products; and (2) it has IPv6 technical support for development and implementation and fielded product management available. If the Contractor plans to offer a deliverable that involves IT that is not initially compliant, the Contractor agrees to (1) obtain the CO’s approval before starting work on the deliverable; (2) provide a migration path and firm commitment to upgrade to IPv6 for all application and product features by June 2008; and (3) have IPv6 technical support for development and implementation and fielded product management available.
- (b) Should the Contractor find that any future statements of work or specifications provided to the Contractor do not conform to the IPv6 standard, it must notify the CO of such nonconformance and act in accordance with instructions of the CO.

- (c) The Contractor shall identify an employee to act as a liaison with the DOE HQ Chief Information Officer where needed. The Contractor shall also refrain from waiving any requirement unless the waiver has been approved in advance in writing/email by the CO. The Contractor shall provide a copy of any waiver to the CO within 45 days of its execution.

H-7 CONFIDENTIALITY OF INFORMATION

- (a) To the extent that the work under this Contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the CO in writing.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the CO, of each employee permitted access, whereby the employee agrees that he will not discuss, divulge, or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the Contract.
- (c) The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this clause, with each company supplying information to the Contractor under this Contract, and to supply a copy of such agreement to the CO.
- (d) The Contractor agrees that upon request by DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.
- (e) This clause shall flow down to all subcontracts.
- (f) Technical data is addressed in Section I, DEAR 970.5227-2.

H-8 CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATION(S) AND FINES AND PENALTIES

- (a) The Contractor shall accept, in its own name, notices of violation(s) (NOV) and fines and penalties if issued directly to the Contractor by Federal or State regulators 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 governed by the provisions of the Section I Contract Clause entitled,

Payments and Advances. The Contractor shall notify the CO promptly when it receives service from the regulators of NOVs and fines and penalties. If an NOV or a fine/penalty is provided to the Contractor and the Contractor is not responsible for the cited function under this contract, the Contractor shall immediately notify the Government and the regulator. Any NOVs, fines or penalties associated with any act or failure to act before the Contractor assumed responsibility for the site shall be processed in accordance with the Contract Clause entitled, Pre-existing Conditions.

- (b) The Contractor shall be free to conduct negotiations with regulators regarding NOVs, fines and penalties issued directly to the Contractor; however, the Contractor shall not make any commitments or offers to regulators which would bind the Government in any form or fashion, including monetary obligations, without receiving written concurrence from the CO or his authorized representative (who shall be the SR Chief Counsel regarding fines and penalties) prior to making any such offers/commitments. Failure to obtain such 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.

H-9 RESERVED

H-10 DEFENSE NUCLEAR FACILITIES SAFETY BOARD (DNFSB)

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

H-11 DISCRIMINATION IN EMPLOYMENT

The Contractor shall not discriminate against any employee, applicant for employment, or former employee on the basis of age. The Contractor shall comply with the Age Discrimination in Employment Act, with any state or local legislation regarding discrimination based on age, and with all applicable regulations thereunder. Additionally, the Contractor shall comply with all other laws such as, but not limited to, Title VII, 42 U.S.C. Section 2000e, et.seq.

H-12 DISPOSITION OF INTELLECTUAL PROPERTY – FAILURE TO COMPLETE

In the event of a termination for default or termination for convenience, DOE may take possession of all technical information, including limited rights data and data obtained from subcontractors, licensors, and licensees, necessary for design, construction, operation, cleanup and closure activities associated with the SOW, subject to the Rights in Data - Facilities clause of this contract. Technical information includes, but is not limited to, designs, operation manuals, flowcharts, software, work progress reports, and any other information necessary for design, construction, operation, cleanup and closure activities associated with the Liquid Waste SOW.

Upon request, the Contractor agrees to grant to the Government an irrevocable, nonexclusive, paid-up license in and to any intellectual property, including any technical information and limited rights data, which are owned or controlled by the Contractor, at any time through completion or termination of this contract and which are necessary for the continued design, construction, operation, cleanup and closure activities associated with the SOW, (1) to practice or to have practiced by or for the Government at the facility, and (2) to transfer such license to future contractors for the design, construction, operation, cleanup and closure activities associated with the SOW. 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.

In addition, the Contractor will take all necessary steps to assign permits, authorizations, and any licenses in any third party intellectual property for the design, construction, cleanup and closure activities associated with the SOW to DOE or such other third party as DOE may designate.

The obligations under this clause are not dependent upon any payments by the Government. The obligations arise immediately upon the request of the CO.

H-13 ELECTRONIC SUBCONTRACTING REPORTING SYSTEM (DOE ACQUISITION LETTER 2006-01 DATED 10/27/05)

- (a) The Offeror's subcontracting plan shall assure that Standard Form (SF) 294, Subcontracting Reports for Individual Contracts, and SF 295, Summary Subcontract Reports are submitted under the Electronic Subcontract Reporting System (eSRS), including all sub tiers.
- (b) The contractor or subcontractor shall provide such information that will allow applicable lower tier subcontractors to fully comply with the statutory requirements of FAR 19.702.

H-14 EMPLOYEE COMPENSATION: PAY AND BENEFITS

(a) Human Resources Compensation Plan

The Contractor shall submit by close of contract transition, a *Human Resources Compensation Plan* demonstrating how the Contractor will comply with the requirements of this Contract. The *Human Resources 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.

(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 including a compensation system Self-Assessment Plan consistent with FAR 31.205-6 and DEAR 970.3102-05-6; "Compensation for Personal Services" (Total Compensation System"). 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 meet the tests of allowability established by and in accordance with FAR 31.205-6 and DEAR 970.3102-05-6, 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 Human Resources Compensation Plan as approved by the Contracting Officer.

(c) Appraisals of Contractor Performance

DOE will conduct periodic appraisals of Contractor performance with respect to Total Compensation System implementation. Such appraisals will be conducted through either DOE validation of the Contractor's performance self-assessment of its Total Compensation System or third party expert review.

(d) Reports and Information

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

- (1) An Annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved amounts.
- (2) A list of the top five most highly compensated executives as defined in FAR 31.205-6(p)(2)(ii) and their total cash compensation at the time of Contract

award, and at the time of any subsequent change to their total cash compensation.

- (3) An Annual Report of Contractor Expenditures for Employee Supplemental Compensation through the Department Workforce Information System (WFIS) Compensation and Benefits Module no later than March 1 of each year.
- (4) A performance self-assessment of the Total Compensation System implementation and results to include an evaluation of total benefits using the Employee Benefits Value Study and the Employee Benefits Cost Survey Comparison Analysis described in paragraph (f) below.

(e) Pay and Benefit Programs

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

- (1) Incumbent Employees are the employees who hold regular appointments with the Washington Savannah River Company performing entity as of date of award.

- (A) Pay. Subject to Section H.2 above, the Contractor shall provide equivalent pay to Incumbent Employees as compared to pay provided by Washington Savannah River company performing entity for at least the first year of the term of the Contract.

- (B) Pension and Other Benefits. The Contractor shall provide a total package of benefits to Incumbent Employees comparable to that provided by Washington Savannah River Company. Comparability of the total benefit package shall be determined by the Contracting Officer in his/her sole discretion.

Incumbent 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. The Contractor shall become a sponsor of the existing pension and other benefit plans (or comparable successor plans), including other post-retirement benefit (PRB) plans, as applicable, for Incumbent Employees and retired plan participants, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of those plans. The Contractor shall carry over the length of service credit and leave balances accrued as of the date of the Contractor's assumption of Contract performance.

- (2) Non-Incumbent Employees are new hires, i.e., employees other than Incumbent Employees who are hired by the Contractor after date of award. 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
 - (A) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract:
 - (i) Any additional compensation system self-assessment data requested by the Contracting Officer that may be needed to validate and approve the total compensation system.
 - (ii) Any proposed major compensation program design changes prior to implementation.
 - (iii) An Annual Compensation Increase Plan (CIP).
 - (iv) Individual compensation actions for the Key Personnel, including initial and proposed changes to base salary and/or payments under an Executive Incentive Compensation Plan.
 - (v) Any proposed establishment of an incentive compensation plan (variable pay plan/pay-at-risk).
 - (B) The Contracting Officer's approval of individual compensation actions will be required only for the Chief Executive Officer, Laboratory Director, and all other named key personnel, as identified by the Contracting Officer.
 - (C) Severance Pay is not payable to an employee under this Contract if the employee:
 - (i) Voluntarily separates, resigns or retires from employment,
 - (ii) Is offered employment with a successor/replacement contractor,
 - (iii) Is offered employment with a parent or affiliated company, or
 - (iv) Is discharged for cause.
 - (D) Service Credit for purposes of determining severance pay does not include any period of prior service for which severance pay has been previously paid

through a DOE cost-reimbursement contract.

(f) 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 for either Incumbent Employees or Non-Incumbent Employees until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changed benefit plans.
- (2) Cost reimbursement for Incumbent Employee and Non-Incumbent Employee pension and other benefit programs sponsored by the Contractor will be based on the Contracting Officer's approval of Contractor actions pursuant to an approved "Employee Benefits Value Study" and an Employee Benefits Cost Survey Comparison" as described below.
- (3) Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs (A) and (B) below. The studies shall be used by the Contractor as part of its performance self assessment described in paragraph (d) (4) above and in calculating the cost of benefits under existing benefit plans. 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.
 - (A) An Employee Benefits Value Study (Ben-Val), every two years each for Incumbent and Non-Incumbent Employees benefits, which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to Incumbent and Non-Incumbent Employees measured against the RV of benefit programs offered by comparator companies approved by the Contracting Officer. To the extent that the value studies do not address post retirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the post retirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources and,
 - (B) An Employee Benefits Cost Study Comparison, annually each for Incumbent and Non-Incumbent Employees that analyzes the Contractor's employee benefits cost for Incumbent and Non-Incumbent Employees on a per capita basis per full time equivalent employee and as a percent of payroll and compares it with the cost reported by the U.S. Chamber of Commerce Annual Employee Benefits Cost Survey or other Contracting Officer approved broad based national survey.
- (4) When the net benefit value exceeds the comparator group by more than five

percent, the Contractor shall submit a corrective action plan to the Contracting Officer.

- (5) When the average total benefit per capita cost or total benefit cost as a percent of payroll exceeds the comparator group by more than five percent, when and if required by the Contracting Officer, the Contractor shall submit an analysis of the specific plan costs that are above the per capita cost range or total benefit cost as a percent of payroll and a corrective action plan to achieve conformance with a Contracting Officer directed per capita cost range or total benefit cost as a percent of payroll.
 - (6) Within two years of Contracting Officer approval of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and per capita cost range as approved by the Contracting Officer.
 - (7) The Contractor shall submit the Report of Contractor Expenditures for Supplementary Compensation for the previous calendar year via the DOE Workforce Information System (WFIS) Compensation and Benefits Module no later than March 1 of the current calendar year.
 - (8) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.
 - (9) Cost reimbursement for PRBs is contingent on DOE approved service eligibility requirements for PRB that shall be based on a minimum period of continuous employment service not less than 5 years under a DOE cost reimbursement contract(s) immediately prior to retirement. Unless required by Federal or State law, advance funding of PRBs is not allowable.
- (g) Establishment and Maintenance of Pension Plans for which DOE Reimburses Costs
- (1) For cost allocability and reimbursement purposes, any defined benefit (DB) or defined contribution (DC) pension plans established and/or implemented by the Contractor shall be maintained consistent with the requirements of the IRC and ERISA.
 - (2) Contractor policies, practices, and procedures used in the administration of pension plans shall be consistent with applicable laws and regulations.
 - (3) Employees working for the Contractor shall only accrue credit for service under this Contract after the date of Contract award.
 - (4) 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

which provides credit for service not performed under a DOE cost-reimbursement contract.

- (5) For each pension plan or portion of a pension plan for which DOE reimburses costs, the Contractor shall provide the Contracting Officer with the following information within nine months of the last day of the current pension plan year.
 - (A) Copies of IRS forms 5500 with schedules; and
 - (B) Copies of all forms in the 5300 series that document the establishment, amendment, termination, spin-off, or merger of a plan.
- (6) Prior to the adoption of any changes to a pension plan, the Contractor shall submit the information required below, as applicable, to the Contracting Officer for approval or disapproval and a determination as to whether the costs to be incurred are consistent with the Contractor's documented Human Resources Compensation Plan and are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6.
 - (A) For proposed changes to pension plans and pension plan funding, an analysis of the impact of any proposed changes on actuarial accrued liabilities and an analysis of relative benefit value; and,
 - (B) The Contractor shall obtain the advance written approval of the Contracting Officer for any non-statutory pension plan changes that may increase costs or liabilities, and any proposed special programs (including, but not limited to, plan-loan features, employee contribution refunds, or ancillary benefits) and shall provide DOE with an analysis of the impact of special programs on the actuarial accrued liabilities of the pension plan, and on relative benefit value, if applicable.
 - (C) The Contractor shall not terminate any pension plan without at least 60 days notice to and the approval of the Contracting Officer prior to the scheduled date of plan termination.

H-15 EMPLOYEE CONCERNS PROGRAM

The Contractor shall submit an implementation plan to the CO for approval within 90 days of contract award that describes an Employee Concerns Program (ECP) that implements all programmatic requirements in DOE Order 442.1A, and DOE Guide 442.1-1, Employee Concerns Program, and all superseding versions. Guidance for preparation of an ECP Plan is provided in Section J, Appendix I.

H-16 ENVIRONMENT, SAFETY, AND HEALTH (ES&H)

- (a) The Offeror shall comply with the existing System Description Document created by the predecessor contractor in accordance with the I Clause titled "Integration ES&H into Work Planning and Execution." The Contractor shall submit an update to the existing Integrated Safety Management System (ISMS) Description Document within 120 days of contract award and thereafter each year on September 1, for the following fiscal year. Any changes to the ISMS Description Document after the CO's or designee's initial approval, shall be approved by the CO or designee.
- (b) The initial update of the ISMS Description Document shall include any revisions to those ES&H Plans/Programs (i.e., Quality Assurance Plan, Radiation Protection Plan, Worker Safety and Health Program, etc.) approved by DOE as required by the clause entitled Laws, Regulations, and DOE Directives.
- (c) This Contract establishes the agreed-upon safety requirements and other operating parameters for the site-wide operations covered by the contract, except with respect to facilities/activities for which separate Authorization Agreement(s) are necessary. Authorization Agreements are to be used to establish, document, and control the safety requirements and other parameters for Category 2 nuclear facilities and other facilities as directed by the CO to ensure adequate protection of the workers, the public, and the environment. Updates and changes to any approved Authorization Agreements(s) shall be subject to CO approval.

H-17 ENVIRONMENTAL JUSTICE

The Contractor shall embrace the principles of Environmental Justice by complying with all applicable environmental regulations and by focusing on nondiscrimination in its programs that affect human health and the environment. The Contractor shall assist the Department in complying with the principles of Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) on Environmental Justice.

H-18 ENVIRONMENTAL PERMITS AND APPLICATIONS

- (a) In recognition of the Contractor's responsibility to operate in compliance with all applicable environmental requirements, the Contractor shall sign Resource

Conservation and Recovery Act (RCRA) permits and applications as co-operator. DOE shall sign RCRA permits and applications as co-operator and owner if such signature is required by law or Regulatory Agency. The Contractor and other Site Contractors shall sign all other permits and applications as required by law or Regulatory Agency.

- (b) To clarify the resulting obligations under the Contract, the parties agree to the following:
 - (1) DOE agrees that the Contractor shall not incur any liability above and beyond that contemplated by the Contract by reason of the Contractor's execution of environmental permits.
 - (2) DOE agrees that if bonds, insurance, or administrative fees are required as a condition for such permits, such costs shall be allowable. In the event that such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with an acceptable form of financial responsibility. In no event shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.
 - (3) In the event of termination or expiration of this Contract, DOE will require the new Contractor to accept transfer of all environmental permits executed by the Contractor.
- (c) The Contractor will be responsible for interfacing with other Site Contractors, as appropriate, when it pertains to permit applications, environmental monitoring, and environmental reporting. DOE will be fully integrated into these processes. Environmental monitoring, reporting, inspection, and control requirements will be defined in either the facility-specific permits issued by the state or in site-wide DOE-approved plans.
- (d) The Contractor will be responsible for reviewing and approving deliverables related to Site-wide permits, permit-related plans, and exemption packages developed pursuant to State and Federal environmental regulations, and for forwarding the applications to the state for final approval, as appropriate. For each permit associated with this work-scope, the Contractor will perform the necessary calculations, prepare required reports, design drawings and application forms, and submit the documentation to DOE for review and, when applicable, approval.
- (e) The Contractor shall sample all release and emission points, as defined in the applicable permits or as directed by DOE, to support environmental monitoring programs. The Contractor shall monitor impacts on site-wide environmental media. The Contractor shall ensure that environmental monitoring data is collected pursuant to standards and procedures stipulated in the permit and/or applicable

regulations. The Contractor shall ensure that all analytical data is collected and analyzed according to applicable methods and standards, and that field and laboratory quality controls and measures are implemented according to applicable standards stipulated in the facility permit. The Contractor shall provide to DOE environmental monitoring data to support operating permits, for which the Contractor has responsibility.

H-19 GOVERNMENT-OWNED PROPERTY AND EQUIPMENT

- (a) Unless otherwise directed by the CO, the Contractor shall, during the Transition Period, conduct a joint reconciliation of the incumbent contractor's property inventory covering all items of Government property. Any discrepancies from the existing inventory records shall be reported to the CO. This information will be used to provide a baseline in accordance with DEAR 970.5245-1, Property.
- (b) All real and personal property, including material and facilities, currently assigned to the incumbent contractor to perform workscope included in this contract will be provided to the Contractor. During the transition period, an inventory of such property in the DOE Facilities Information Management System, Federal Inventory System, and applicable incumbent contractor property databases will be provided to the Contractor. Specifically, the following Property Acceptance requirements will be implemented.
 - (1) The Contractor must agree to conduct and complete a full inventory of all accountable special nuclear material during the transition period and accept full accountability for that special nuclear material.
 - (2) The Contractor must agree to accept, at the end of transition, transfer of accountability for the remaining government-owned property (real and personal) not covered under paragraph (1), based on existing inventory records, on an "as-is, where-is" basis, and complete a formal inventory of all other nuclear material and non-nuclear material within 120 calendar days. As the formal inventories are completed, the Contractor shall assume responsibility and liability for subsequent losses and damages.

H-20 HOME OFFICE EXPENSES

Home office expenses, whether direct or indirect, relating to activities of the Contractor are unallowable, except as otherwise specifically provided in the Contract or specifically agreed to in writing by the CO.

H-21 LABOR RELATIONS

- (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.
- (b) The Contractor shall meet with the Contracting Officer or designee(s) for the purpose of reviewing the Contractor's bargaining objectives prior to negotiations of any collective bargaining agreement or revision thereto and shall consult with and obtain the approval of the Contracting Officer regarding appropriate economic bargaining parameters, including those for pension and medical benefit costs, prior to the Contractor entering into the collective bargaining process. During the collective bargaining process, the Contractor shall notify the Contracting Officer before submitting or agreeing to any collective bargaining proposal which can be calculated to affect allowable costs under this Contract or which could involve other items of special interest to the Government. During the collective bargaining process, the Contractor shall obtain the approval of the Contracting Officer before proposing or agreeing to changes in any pension or other benefit plans.
- (3) 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 and DEAR, Subpart 970.2201 and all applicable Federal and State Labor Relations laws.
- (4) The Contractor will notify the Contracting Officer or designee in a timely fashion of all labor relations issues and matters of local interest including organizing initiatives, unfair labor practice, work stoppages, picketing, labor arbitrations, and settlement agreements and will furnish such additional information as may be required from time to time by the Contracting Officer.

H-22 LITIGATION MANAGEMENT PROCEDURES

- (a) The Contractor [including any entities named in Section H-34, paragraph (a) of Special Contract Clause, Recognition of Performing Entity] shall prepare a Management of Litigation Procedures which shall be submitted to the CO or designee for approval within 60 days after the effective date of the contract, and shall be updated thereafter as required.
- (b) The SR Chief Counsel is the authorized designee of the CO for approval of this Plan.
- (c) Reasonable litigation and other legal expenses are allowable when incurred in accordance with the DOE approved contractor legal management procedures (including cost guidelines) as such procedures may be revised from time to time, and if not otherwise made unallowable by law or the provisions of this contract.

H-23 LOBBYING RESTRICTIONS

- (a) The Contractor shall not commit any funds obligated on this award to be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in applicable statute and regulation.
- (b) Any travel associated with legislative monitoring must be approved in advance by the CO.

H-24 NUCLEAR MATERIAL FACILITY OPERATIONS

- (a) The activities under this Contract include the operation of nuclear material facilities. The Contractor recognizes that such operations involve the risk of a nuclear incident which, while the chances are remote, could adversely affect the public health and safety as well as the environment. Therefore, the Contractor shall exercise a degree of care commensurate with the risk involved.
- (b) As used in this clause, the term "Nuclear Materials" is a collective term which includes source material, Special Nuclear Material, and those other materials to which, by direction of DOE and/or NNSA, the provisions of DOE's Directives regarding the control of Nuclear Materials, which have been or may be furnished to the Contractor by DOE and/or NNSA, apply. The Contractor shall accept existing procedures and, in a manner satisfactory to the CO, propose revised, as appropriate, accounting and measurement procedures, maintain current records and institute appropriate control measures for Nuclear Materials in its possession commensurate with the national security and DOE policy. The Contractor shall make such reports and permit such inspections as DOE and/or NNSA may require with reference to nuclear materials. The Contractor shall take all reasonable steps and precautions to protect such materials against theft and misappropriations and to minimize all losses of such materials.
- (c) Transfers of Nuclear Materials shall only be made with the prior written approval of the CO, or authorized designee. Nuclear Materials in the Contractor's possession, custody, or control shall be used only for furtherance of the work under this contract. The Contractor shall be responsible for the control of such Nuclear Materials in accordance with applicable DOE Directives regarding the control of Nuclear Materials, which have been or may be issued to the Contractor by DOE and/or NNSA, and shall make a part of each purchase order, subcontract, and other commitment involving the use of Nuclear Materials for which the Contractor has accountability, which it enters into under this contract, appropriate terms and conditions for the use of Nuclear Materials and the responsibilities of the subcontractor or vendor regarding control of Nuclear Materials. In the case of fixed-price purchase orders, subcontracts, or other commitments involving the use of

Nuclear Materials for which the Contractor has accountability, the terms and conditions with respect to Nuclear Materials shall also identify who has the financial responsibilities, if any, regarding such items as losses, scrap recovery, product recovery, and disposal.

H-25 OPEN COMPETITION AND LABOR RELATIONS IN MANAGEMENT AND OPERATING AND OTHER MAJOR FACILITIES CONTRACTS (DEC 2002)

“Labor organization,” as used in this clause, shall have the same meaning it has in 42 U.S.C 2000e (d).

- (a) Unless acting in the capacity of a constructor on a particular project, the Contractor shall not:
 - (1) Require bidders, offerors, contractors, or subcontractors to enter into or adhere to nor prohibit those parties from entering into or adhering to agreements with one or more labor organizations, i.e., project labor agreements, that apply to construction projects(s) to this contract; or
 - (2) Otherwise discriminate against bidders, offerors, contractors, or subcontractors for refusing to become or remain signatories or to otherwise adhere to project labor agreements for construction project(s) relating to this contract.
- (b) When the Contractor is acting in the capacity of a constructor, i.e., performing a substantial portion of the construction with its own forces, it may use its discretion to require bidders, offerors, contractors, or subcontractors to enter into a project labor agreement that the Contractor has negotiated for that individual project.
- (c) Nothing in this clause shall limit the right of bidders, offerors, contractors, or subcontractors to voluntarily enter into project labor agreements.

H-26 ORGANIZATIONAL CONFLICT OF INTEREST MANAGEMENT PLAN

Within 120 calendar days after the effective date of the contract, the Contractor shall submit to the CO for approval an Organizational Conflict of Interest (OCI) Management Plan. The Plan shall describe an aggressive program to self-identify conflicts of interest, avoid conflicts of interest and facilitate the mitigation of actual conflicts of interest and shall be periodically updated as required during the term of the contract. The Plan shall be consistent with DEAR 952.209-72, Organizational Conflicts of Interest, and include the following:

- (a) The procedures for identifying and evaluating past, present, and anticipated contracts of the Contractor, its related entities and the entities named in the Special Contract Clause, entitled Performing Entity, and their related entities;

- (b) The procedures the Contractor will utilize to identify conflicts;
- (c) The procedures for reporting actual or potential conflicts of interest to the CO;
- (d) The procedures the Contractor will utilize to oversee, implement, and update the OCI 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 DOE required representations and certifications and factual analyses are timely submitted to DOE for approval;
- (f) The procedures for protecting agency information that could lead to an unfair competitive advantage if disclosed, collecting disclosure agreements covering all individuals, subcontractors, and other entities with access to agency-sensitive information, and physical safeguards, if necessary;
- (g) The procedures for OCI training and self-education of employees, as well as the frequency of recertifications; and
- (h) The enforceable disciplinary mechanisms to be used by the Offeror.

(Note: This Plan is separate from that required in the Special Contract Clause entitled, Technology Transfer.)

H-27 PERFORMANCE BASED MANAGEMENT AND OVERSIGHT

- (a) Performance-based management shall be the key enabling mechanism for establishing the DOE-Contractor expectations on oversight and accountability. DOE expectations (outside of individual program performance and requirements of laws and regulations) and performance targets shall be established through the Performance Evaluation and Measurement Plan (PEMP). This PEMP shall establish the expected strategic results in the areas of mission accomplishment, stewardship and operational excellence. Mission performance, stewardship and operational goals shall be established by agreement with DOE. Contractor self-assessment, third party certification, and Contractor and DOE independent oversight, as appropriate, shall be the primary means for assessing stewardship and operational performance. Routine DOE oversight of Contractor performance will be conducted in accordance with DOE Order 226.1, Implementation of DOE Oversight Policy.
- (b) The Contractor shall propose to the CO by February 1, 2008, an SR EM Contract Performance Baseline and a performance based incentive program including proposed incentives and associated fee amounts, within the total fee amounts specified in paragraph B-2.3(a) above. The incentives may be annual incentives and/or multi-year incentives covering up to the entire balance of the base term of the contract. The CO will consider the proposed incentive program in establishing the Performance Evaluation and Measurement Plan required by Section I Clause entitled, DEAR 970.5215-1, "Total Available Fee: Base Fee Amount and Performance Fee Amount."

The performance-based management system shall be the primary vehicle for addressing issues associated with performance expectations. In the event of a substantive performance shortfall in any area, the appropriate improvement expectations and targets will be incorporated into the PEMP and tracked through self-assessment and independent oversight, as appropriate.

- (c) Compliance with applicable Federal, State and local laws and regulations, and permits and licenses, shall be primarily determined by the cognizant regulatory agency and DOE will primarily rely upon the determination of the external regulators in assessing Contract compliance. DOE oversight will be achieved through periodic assessments at the management system level, including review of Contractor self-assessments and assessments by independent third parties.

H-28 PERFORMANCE BASED INCENTIVES

- (a) **Performance-Based Management System.** This Contract is a management and operating performance-based contract, which holds the Contractor accountable for performance. This Contract uses clearly defined standards of performance

consisting of performance objectives in relation to award fee and performance-based incentives as described in this Contract Clause with measures and targets for each area agreed to in advance on a fiscal-year basis and incorporated into the Performance Evaluation and Measurement Plan (PEMP). The Parties agree to continuously improve upon these standards of appraising Contractor performance.

- (b) **Performance Evaluation and Measurement Plan (PEMP).** A PEMP developed by the CO, with Contractor input, shall document the process by which the Contractor's performance will be evaluated. The Parties will strive to reach mutual agreement on expected business, operational and technical performance and will work together to develop performance objectives, performance-based incentives and associated measures and targets tied to key end products and NNSA/DOE strategic goals and objectives. In the event the parties fail to agree on the requirements, the CO reserves the unilateral right to make the final decision on all performance objectives and performance incentives (including the associated measures and targets) used to evaluate Contractor performance. The PEMP shall be finalized, whether bilaterally or unilaterally, prior to the start of an appraisal period. Only the CO may revise the PEMP, consistent with the Contract statement of work, during the appraisal period of performance. No changes will be made to the PEMP with less than 60 days remaining in the appraisal period.
- (c) **Contractor Appraisal Self-Assessment Report.** If requested by the CO, an annual self-assessment report shall be prepared by the Contractor of its performance against the performance objectives and incentives contained in the PEMP and other significant factors as determined by the Contractor and CO. The annual self-assessment shall be submitted within five-working days after the end of the appraisal period.
- (d) **Determination of Performance Incentives Fee**
 - (1) DOE/NNSA shall, at the conclusion of each specified appraisal period, evaluate the Contractor's performance for all Performance Incentive requirements.
 - (2) The Performance Incentive fee determination will be made in accordance with the PEMP. The determination as to the amount of Performance Incentive fee earned is a unilateral determination made by the Fee Determination Official (FDO).
 - (3) The Contractor shall be promptly advised in writing of the amount and the basis of the Performance Incentive fee determination.
 - (4) Performance Incentive fee not earned during the evaluation period shall not be allocated to future evaluation periods.

- (e) **Schedule.** The CO shall issue the Fee Determination Official's final total available fee amount earned determination in accordance with the schedule set forth in the PEMP or as otherwise set forth in this contract. However, a determination must be made within sixty calendar days after the receipt by the CO of the Contractor's self-assessment or seventy calendar days after the end of the evaluation period, whichever is later, or a longer period if the Contractor and CO agree. If the CO evaluates the Contractor's performance of specific requirements on their completion, the payment of any earned fee amount must be made within seventy calendar days (or such other time period as mutually agreed to between the CO and the Contractor) after such completion.

- (f) **Fee.** The maximum fees allocated for payments to the Contractor for the performance of the work under this Contract are set forth in Part I, Section B, of the Schedule. The Performance Incentives fee earned is available for payment in accordance with the Contract Clause entitled "Payments and Advances." There shall be no adjustment in the amount of the Contractor's fee by reason of differences between any estimate of cost for performance of the work under this Contract and the actual cost of performance of that work.

H-29 PERFORMANCE GUARANTEE

The Contractor is required by other provisions of this Contract to organize a separate corporate entity to perform the work under the Contract and shall be totally responsible for all Contract activities. 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 as evidenced by the Performance Guarantee Agreement incorporated in the Contract in Section J, Appendix G. If the Contractor is a joint venture, limited liability company, or other similar entity where more than one organization is involved, the parent or all member organizations shall assume joint and several liability for the performance of the Contractor. 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 CO.

H-30 PERFORMANCE/TECHNICAL DIRECTION

- (a) This clause supplements the Contract Clause in Section I entitled, "Technical Direction."

- (b) In addition to those functions specifically reserved throughout this Contract for the CO, the CO shall be the sole authority for assignment or modification of work authorization documents, approval and modification of PBIs, establishment of work priorities, and directing work requiring the expenditure of funds which have been obligated for performance of this Contract.

- (c) The CO's Representative(s) will be designated by the CO by letter and will represent the CO in the technical phases of the work. A copy of this designation letter shall be furnished to the Contractor. The COR (s) is authorized to provide technical direction in accordance with the contract clause in Section I entitled "Technical Direction." The COR is not authorized to change any of the terms and conditions of this contract, including the Statement of Work. Changes in any of the terms and conditions of the contract shall be made only by the CO by written modification(s) to the contract.
- (d) The Contractor shall only accept Technical Direction if provided in writing by an appointed COR and if within terms of the SOW or a work authorization document. Technical Direction shall not authorize the Contractor to exceed the total funds obligated on the Contract or any estimated cost or delay in delivery in a work authorization document. It is expected that there will be full and open communication between the functional counterparts of DOE and the Contractor's organization.
- (e) Performance/Technical Direction does not:
 - Authorize the contractor to exceed the funds obligated on the Contract;
 - Authorize any increased cost or delay in delivery;
 - Entitle the Contractor to an increase in fee; or
 - Change any of the terms or conditions of the Contract.
- (f) (1) The Contractor shall promptly comply with each duly issued Performance Direction unless the Contractor reasonably believes that the Performance Direction violates this clause. If the Contractor believes the Performance Direction violates this clause, the Contractor shall suspend implementation of the Performance Direction and promptly notify the CO of its reasons for believing that the Performance Direction violates this clause. Oral notification to the CO shall be confirmed in writing within ten days of the oral notification.
- (2) The CO will determine if the Performance Direction is within the SOW and work authorization document. This determination will be issued in writing and the Contractor shall promptly comply with the CO's direction. If it is not within the SOW or work authorization document, the CO may issue a change order pursuant to the Contract's Section I Clause entitled "Changes."

H-31 PRESERVATION OF ANTIQUITIES, WILDLIFE AND LAND AREAS

- (a) DOE Policy 141.1, Department of Energy Management of Cultural Resources, and

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 CO the existence of any antiquities so discovered. The Contractor shall also preserve all vegetation (including wetlands) except where such vegetation must be removed for survey or construction purposes. Furthermore, all wildlife must be protected except for management programs approved by the CO.

- (b) 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-32 PRIVACY ACT SYSTEMS OF RECORDS (SOR)

The Contractor shall design, develop, or operate the following systems of records on individuals to accomplish an agency function pursuant to the Contract Clause entitled "Privacy Act."

DOE System No.	Title
DOE-05	Personnel Records of Former Contractor Employees (This SOR shall include the records of all former employees who previously worked for any predecessor contractors at SRS)
DOE-10	Worker Advocacy Records
DOE-11	Emergency Operations Notifications Call List
DOE-15	Intelligence Related Access Authorization
DOE-33	Personnel Medical Records (Present and former DOE employees, Contractor Employees, and other persons at SRS receiving routine, periodic, and emergency medical examination or treatment.)
DOE-35	Personnel Radiation Exposure Records (Past and present DOE and Contractor employees and other persons having access to SRS)
DOE-38	Occupational and Industrial Accident Records (DOE and Contractor employees and other persons having access to SRS and having accidents at SRS, or individuals involved in accidents with DOE or Contractor employees.)
DOE-43	Personnel Security Clearance Files
DOE-45	Weapon Data Access Control System (DOE, DOD, or other Government agency employees, Government Contractors, consultants, and other persons requiring access to classified weapons data or SRS nuclear weapons program facilities.)
DOE-48	Security Education and/or Infraction Reports
DOE-50	Personnel Assurance Program (PAP) (DOE or Contractor employees or individuals under the SRS Plant PAP.) Records of medical examination results and PAP-related training records.
DOE-51	Employee and Visitor Access Control System (DOE and Contractor employees and other individuals working at or visiting SRS.)
DOE-52	Access Control Records of International Visits, Assignments and Employment
DOE-75	Call Detail Records
DOE-77	Physical Fitness Test Records
DOE-81	Counterintelligence Administrative and Analytical Records and Reports
DOE-84	Counterintelligence Investigative Records
DOE-88	Epidemiologic and Other Health Studies, Surveys and Surveillances

The above list shall be revised from time to time by mutual agreement between the Contractor and the CO as may be necessary to keep it current. Such changes need not be formally incorporated before the annual Contract update modification, but shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in Paragraph (a)(1) of the Contract Clause entitled "Privacy Act."

In performing its functions under this contract, the Contractor shall neither request nor utilize social security numbers as a personal identifier of Federal employees unless required to do so by law or regulation, DOE Order, or as agreed to in writing by the CO.

H-33 PROVISIONAL PAYMENT OF INCENTIVE FEE

- (a) A provisional payment is a payment of fee made for partial completion of an incentive. Provisional payments must be repaid in whole or in part, as determined by the CO, if the incentive is not successfully completed.
- (b) Payments may be made based upon completion of milestones or any other methodology as set forth in the PEMP and its supporting documentation. Provisional payments may be made as identified in paragraph (a) above.
- (c) If the Contractor fails to fully accomplish an incentive for which it has received milestone completion or provisional payments, the CO will determine if the Contractor is to refund part or all of the provisional fee it has received. Any refund made shall include interest. Interest will be paid at the interest rate established by the Secretary of the Treasury as provided in Section 12 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which any unearned payments were made.

H-34 QUALITY ASSURANCE SYSTEM

The Contractor shall maintain and enhance a formal Quality Assurance Program approved by DOE as required by the clause entitled Laws, Regulations and DOE Directives. Any subcontracts in support of the Contractor's work shall require subcontractors to comply with applicable elements of the Contractor's approved Quality Assurance Program or the subcontractor's program(s) as approved by the Contractor.

H-35 RECOGNITION OF PERFORMING ENTITY

- (a) The Contractor and the Government recognize that the parties named below form the performing entity on which the award of this contract was based.

TO BE PROVIDED BY OFFEROR

- (b) Accordingly, the Contractor and the Government agree that:

The Contractor shall take no action to replace the components of the Offeror named in (a) above without the prior written approval of the CO.

H-36 REPORTING REQUIREMENTS (For NNSA Reporting)

- (a) **Work Breakdown Structure (WBS).** Except as provided for elsewhere in the contract, the WBS, as approved by the CO, shall provide the basis for all reports required under this subsection. The WBS shall be derived from the SOW and shall otherwise conform to any implementation guidance which may be provided by the CO.
- (b) **Periodic Plans and Reports.** The Contractor shall submit periodic cost, schedule, and technical performance plans and reports in such form and substance as required by the CO. These periodic plans and reports shall be submitted at the interval, and to the addresses and in the quantities as specified by the CO. Where specific forms are required for individual plans and reports, the CO shall provide such forms to the Contractor. The plans and reports expected to be submitted by the Contractor are described generally as follows:
- (1) General Management Reports narratively summarize schedule, labor, and cost plans and status, and provide explanations of status variances from plans.
 - (2) Schedule/Labor Cost Reports provide information on schedule, labor and cost plans and status.
 - (3) Performance Measurement Reports provide information regarding budgeted cost versus actual cost, schedule performance against milestones and estimated cost at completion.
 - (4) Technical Reports are the means by which scientific, technical, and engineering information acquired in the performance of the work is disseminated.
 - (5) Plans and reports shall be prepared by the Contractor in such a manner as to provide for:
 - consistency with the Contract Statement of Work, the work authorization documents, the approved WBS, and the existing accounting structure; and
 - correlation of data among the various plans and reports.
- (c) **Changes in Work Effort.** The reporting system established and maintained by the Contractor pursuant to this subsection shall recognize changes in work effort directed by the CO, as provided for in the Work Authorization System. During performance of this contract, the Contractor shall update and/or change, as

appropriate, the WBS (including any diagrams, supporting work descriptions, and WBS dictionary) to reflect changes in the SOW or work authorization documents. The Contractor's reporting system shall be able to provide for the following at the work authorization document level, or such lower level, as specified by the CO.

- (1) Incorporate contractual changes affecting estimated cost, schedule, and other relevant terms and conditions of the contract, in a timely manner;
 - (2) Reconcile estimated costs for those elements of the WBS identified in the Contract as either priced line items or discrete work authorization documents, and for those elements at the lowest level of the project summary WBS with current performance measurement budgets in terms of:
 - Changes to the authorized work; and,
 - Internal replanning in the detail needed by management for effective control;
 - (3) Prohibit retroactive changes to records pertaining to work performed that will change previously-reported costs except for correction of errors and routine accounting adjustments;
 - (4) Prevent revisions to the Contract estimated costs except for Government-directed or approved changes to the contractual effort; and
 - (5) Document, changes to the performance measurement baseline and, on a timely basis, notify the CO of such changes.
- (d) The Contractor agrees to provide the CO, or designated authorized representatives, access to information and documents comprising the Contractor's reporting system described in (b) above.
- (e) The Contractor shall include the requirements of subparagraphs (b) and (d) in all subcontracts that are cost-reimbursement type of contracts when:
- The value of the subcontract is greater than \$2 million, unless specifically waived by the CO, or
 - The CO determines prior to award that the contract/subcontract effort is, or involves, a critical task related to the Contract.

H-37 REPRESENTATIONS AND CERTIFICATIONS

The Representations, Certifications, and Other Statements of Offeror for this Contract as completed by the Contractor and dated _____, are hereby incorporated in this Contract by reference.

H-38 RESPONSIBLE CORPORATE OFFICIAL

Notwithstanding the Section H provision entitled "Performance Guarantee," the Government may contact, as necessary, the single responsible corporate official identified below, who is at a level above the Contractor and who is accountable for the performance of the Contractor. Should the responsible corporate official change during the period of the contract, the Contractor shall promptly notify the Government of the change in the individual to contact.

Name: _____

Position: _____

Company: _____

H-39 RIGHTS TO SUBCONTRACTOR PROPOSAL DATA

Except as otherwise authorized by the CO, the Contractor, pursuant to FAR 27.409(s), shall include the clause FAR 52.227-23, "Rights to Proposal Data (Technical) (JUNE 1987)," in any subcontract awarded based on consideration of a technical proposal.

H-40 SEGREGATION OF COSTS

- (a) Whenever the contract contains a provision for an incentive for a portion of the work effort under the contract, the Contractor shall maintain separate accounts, by work authorization directive or other suitable accounting procedure, of all incurred segregable, direct costs of work, allocable to the work effort directly related to the incentive arrangement.
- (b) If the Contractor has initiated work pursuant to the clause entitled, Cost Reduction, included in this contract, that a proposal has been accepted, the Contractor, for each cost reduction incentive proposal, shall maintain separate accounts, by work authorization directive or other suitable accounting procedure, of all incurred segregable, direct costs, both changed and not changed, allocable to the changed work effort set forth in the applicable Cost Reduction Incentive Proposal.
- (c) The Contractor shall maintain all such accounts, required pursuant to the paragraphs above, in accordance with the clauses Access to and Ownership of Records and DEAR 970.5204-9, Accounts, Records and Inspection, of this contract, but, in no case, for a period of less than three years following the Government's determination of the applicable incentive fee.

H-41 SEPARATE CORPORATE ENTITY

The work performed under this Contract by the Contractor shall be conducted by a separate corporate entity from its parent company(s). The separate corporate entity must be set up solely to perform this Contract, and shall be totally responsible for all Contract activities. The separate corporate entity shall perform no other commercial work or work for other Government agencies except as may be authorized under the terms of this contract. The Contractor shall not utilize or otherwise divert contract employees to other corporate work except as may be authorized under the terms of the contract or as otherwise authorized by the CO.

H-42 SMALL BUSINESS SUBCONTRACTING PLAN

The Small Business Subcontracting Plan with goals, submitted by the Contractor consistent with the provisions of the Contract Clause, entitled, "Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Plan" and approved by the CO is incorporated into this Contract as Appendix C in Section J. Prior to the beginning of each Fiscal Year, the Contractor shall also submit an "annual" subcontracting plan which shall establish subcontracting goals. The annual plan shall be reviewed for approval by the CO and upon approval are incorporated into this Contract by reference as a material part of the contract.

H-43 SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT

The Contractor shall provide in accordance with DOE requirement, a Special Financial Institution Account Agreement which shall be in place prior to assuming full responsibility for the performance of the contract. This agreement shall be included as Section J, Appendix B.

H-44 STOP WORK AND SHUT DOWN AUTHORITY - ENVIRONMENT, SAFETY AND HEALTH

- (a) Definition: Stop Work - The suspension of a specific activity or activities by the CO or authorized designee based upon the determination or observation of conditions which are immediately dangerous to the life or health of the workers, the public, or the environment or for any other reason determined to be in the best interests of the Government from an ES&H perspective. Stop-Work Orders for non-ES&H reasons shall be in accordance with the Contract Clause contained in Section F entitled, FAR 52.242-15 Stop-Work - Alternate I (APR 1984).
- (b) The CO, or authorized designee, may at any time during the performance of this contract issue a stop-work order and shutdown facility operations or stop work on specific activities of the Contractor or any Subcontractor, in accordance with the following:

- (1) The CO shall notify the Contractor, in writing, of any noncompliance with applicable ES&H requirements which come to the attention of the CO. After receipt of such notice, the Contractor shall immediately take corrective action, consistent with the work authorization provisions of the Special Contract Clause entitled, Performance/Technical Direction. In the event that the Contractor fails to take corrective action, the CO or authorized designee may, without prejudice to any other legal or contractual rights of DOE, issue a written order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of the CO in accordance with applicable DOE Directives, if any. The Contractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (2) If at any time during performance of the contract work, the Contractor's acts or failure to act causes substantial harm or an imminent danger to the health or safety of individuals or the environment, the CO or authorized designees may, without prejudice to any other legal or contractual rights of DOE, issue a verbal order, to be immediately confirmed in writing before departing the incident site, stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of the CO in accordance with applicable DOE Directives, if any. The Contractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.
- (c) Duly appointed DOE Facility Representatives; Deputy Managers; Assistant Managers; NNSA-SRSO Deputy Manager and Director of Operations; and the Director, OSSES are authorized designees of the CO for the purposes set forth in this clause. Other authorized designees shall be approved through the process described in the Special Contract Clause in Section H entitled, Performance/Technical Direction.
- (d) The Contractor shall include this clause, modified appropriately to include Contractor Representatives, in all subcontracts containing the Contract Clause entitled, DEAR 970.5204-2 "Laws, Regulations, and DOE Directives."

H-45 SUBCONTRACTOR SELECTION

- (a) The Contractor shall establish in its purchasing system, developed as required by the Contract Clause entitled, Contractor Purchasing System, procedures for evaluating the ES&H records of companies submitting offers/bids/proposals for performing subcontract work in Government-owned or leased facilities under this contract. The procedures shall provide for evaluation of ES&H indicators (e.g., workers'

compensation costs, injury/illness incidence rates, lost workday incidence rates, property damage, fire loss rates, experience modification rate, etc.), as appropriate, for the work to be performed.

- (b) Only those subcontractors with acceptable records shall be selected for award of subcontracts for work in Government-owned or leased facilities.

H-46 SUBCONTRACTS

Prior to the placement of subcontracts and in accordance with the clause, Contractor Purchasing System, the Contractor shall ensure that any required prior notice and description of the subcontract is given to the CO and any required consent is received. Except as may be expressly set forth therein, any consent by the CO to the placement of subcontracts shall not be construed to constitute approval of the Subcontractor or any subcontract terms or conditions, determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any Subcontractor privity of contract with the Government.

H-47 SUPPORT TO OTHER SITE CONTRACTORS

- (a) The Contractor shall provide timely and quality technical, logistical and administrative support to other site contractors as such support is programmed and requested through the SRS work authorization documents. Costs for support provided shall be charged to the requesting contractor(s) in accordance with existing DOE financial policies. The methodology for funds transfer shall be developed in accordance with DOE policies. The contractor shall attempt to provide non-programmed support to the other contractors based on the availability of its resources and charged in accordance with DOE financial policies.
- (b) The Contractor shall coordinate and integrate the technical, logistical and administrative support needed by other contractors with those contractors to ensure adherence to established schedules and baselines by both contractors. Other site contractors requiring programmed, or unprogrammed, support shall identify their requirements in a timely manner and shall utilize the Contractor's processes and procedures.
- (c) The other site contractor's obligation to utilize programmed support from the Contractor is contingent upon the Contractor providing the services in a timely manner at an acceptable level of performance and at reasonable costs. If the other site contractor can demonstrate that the Contractor's costs are unreasonable or that similar services are available from another source at a more reasonable cost, as approved by the CO, the other site Contractor will not be obligated to utilize the Contractor's services/support.

H-48 NO THIRD PARTY BENEFICIARIES

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

H-49 TRANSITION ACTIVITIES

- (a) During the transition period, as specified in the clause in Section F entitled “Term of Contract,” the Contractor shall perform those activities that are necessary to transition the work from the incumbent contractor in a manner that (1) assures that all work for which the contractor is responsible under the contract is continued without disruption; (2) provides for an orderly transfer of resources responsibilities, and accountability from the incumbent contractor; and (3) provides for the ability of the Contractor to perform the work in an efficient, effective, and safe manner. The Contractor is responsible for providing all necessary personnel and logistical support (office space, computers, telephone, etc.) during the transition period, unless specifically directed otherwise by the CO.
- (b) The Contractor shall use the transition plan submitted with the proposal as the basis for beginning the transition activities immediately upon award of the contract. The Contractor shall submit a final transition plan and budget to the CO for approval within 10 working days after award of the contract.
- (c) After completion of the transition activities contained in the approved transition plan and such other transition activities as may be authorized or directed by the CO, the Contractor shall notify the CO in writing that it is ready to assume full responsibility for the work. The Contractor shall assume full responsibility for the work upon the date specified in writing by the CO.
- (d) The plan shall include a schedule of major activities, and address as a minimum:
 - Communication process among the Contractor, incumbent contractors, site tenants, and DOE;
 - Identification of key transition issues and milestones;
 - Identification of a transition team (inclusive of consultants and teaming members, if any);
 - Integration of work packages (direct and indirect) and budgets from incumbent contractors;
 - Approach to minimizing impacts on continuity of operations;
 - Dispute Resolution;
 - Assumption of SR programs and projects;

- Comprehensive human resource management as described in clause Section H-entitled, “Employee Compensation: Pay and Benefits”;
 - Implementation of existing or proposed management systems (e.g., Project Management, Integrated Safety Management, General Electronic Data Processing, Budget and Planning, Purchasing Material, Compensation, Labor/Payroll, Indirect and Direct Costs, Property Management, Billing and Estimating);
 - Assumption of all ES&H responsibilities, functions, and activities;
 - Identification and prioritization of issues after transition; and
 - A detailed cost breakdown by transition activity (include cost breakdown as an appendix to the plan).
- (e) Contractor agrees to perform the activities set forth in paragraph (a) above, including relocation of Contractor’s “Key Personnel,” as described in its Cost Proposal, at an allowable cost not to exceed \$_____. In the event the actual cost of said activities exceeds such amount, including any costs for relocation of Contractor’s “Key Personnel” incurred after the conclusion of the transition period, Contractor agrees that it will be solely responsible for costs greater than said amount.
- (f) Contractor agrees that costs identified as transition related costs outside of the transition period shall be specifically identified and approved by the CO.

H-50 TRANSITION TO FOLLOW-ON CONTRACT

The Contractor recognizes that the work and services covered by this contract are vital to the DOE mission and must be maintained without interruption, both at the commencement and the expiration of this contract. It is therefore understood and further agreed in recognition of the above:

That at the expiration of the contract term or any earlier termination thereof, the Contractor shall cooperate with a successor contractor or the Government by allowing either to interview its employees for possible employment, and if such employees accept employment with the replacement Contractor, shall release such employees at the time established by the new employer or by DOE. The Contractor shall cooperate with the replacement Contractor and Government with regard to the termination or transfer arrangements for such employees to assure maximum protection of employee service credits and fringe benefits.

After selection by the Government of any successor Contractor, the Contractor and such successor Contractor shall jointly prepare mutual detailed plans for phase-out and phase-in operations. Such plans shall specify a training and orientation program for the successor Contractor to cover each phase of the scope of work covered by the contract. A proposed date by which the successor Contractor will assume responsibility for such work shall be established. The Contractor shall assume full responsibility for such work until

assumption thereof by the successor Contractor. Execution of the proposed plan or any part thereof shall be accomplished in accordance with the CO's direction and approval.

This clause shall apply to subcontracts as approved by the CO.

The Contractor shall be reimbursed for all reasonable phase-in and phase-out costs, i.e., costs incurred within the agreed period after contract expiration that result from phase-in and phase-out operations.

H-51 TYPE OF CONTRACT

This is a performance based contract for the management of a DOE facility governed by the provisions of FAR 17.6 and DEAR 917.6. It is a cost-reimbursement contract with provisions for a general performance fee and performance incentives as provided for in the clause in Section I entitled, Total Available Fee: Base Fee Amount And Performance Fee Amount.

H-52 UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (UCNI)

Documents originated by the Contractor or furnished by the Government to the Contractor in connection with this Contract may contain UCNI as determined pursuant to Section 148 of the Atomic Energy Act of 1954, as amended. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE Regulations and Directives.

H-53 WITHDRAWAL OF WORK

- (a) The CO reserves the right to have any of the work contemplated by Section C, Statement of Work, of this contract performed by either another Government contractor or to have the work performed by Government employees.
- (b) DOE reserves the right to direct the Contractor to assign to the DOE, or another Contractor, any subcontract awarded under this contract.
- (c) The DOE reserves the right to identify specific work activities in Section C "Description/Specifications/Work Statement" to be removed (de-scoped) from the contract in order to contract directly for the specific work activities.
- (d) If withdrawn work has been authorized under an annual work authorization directive, the work shall be terminated in accordance with the procedures in the Contract Clause entitled, Termination. If work has not been authorized under a work authorization directive and there is no impact on the Contractor's staffing, the fee amount set forth in the Schedule shall be equitably adjusted, under the Clause entitled, Changes. If the Contractor's staffing is impacted, the work shall be terminated in accordance with the procedures in the Contract Clause entitled,

Termination.

- (e) If any work is withdrawn by the CO, the Contractor agrees to fully co-operate with the new entity performing the work and to provide whatever support is required pursuant to the Contract Clause in Section I entitled, Technical Direction.

H-54 WORK AUTHORIZATION SYSTEM

- (a) Prior to the start of each Fiscal Year, DOE shall provide the Contractor program execution guidance in sufficient detail to develop an estimated cost, scope, and schedule. The Contractor shall submit to the CO or other designated official, a detailed description of work, a budget of estimated costs, and a schedule of performance for the work to be performed during the next Fiscal Year.
- (b) The Contractor and DOE shall mutually establish a budget of estimated costs, detailed description of work, and schedule of performance for each task at level 3 or as otherwise specified by the CO. The established description of work, estimated costs, and schedule of performance shall be incorporated into work authorization directives. Work authorization directives, signed by the Contractor and issued by the CO are incorporated by reference into this Contract. If agreement cannot be reached on the scope, schedule, and estimated cost for the work authorization directives, the CO shall issue unilateral work authorization directives pursuant to this clause which may be appealed under the Contract Clause entitled "Disputes."
- (c) No activities shall be authorized and no costs incurred until either the CO has issued work authorization directives or the CO has issued direction concerning continuation of activities.
- (d) The work authorization directives authorizing the Contractor to proceed with performance shall be provided to the Contractor by the CO. Each work authorization directive so issued will include, as a minimum, the following:
- Authorization number and effective date;
 - Description of work;
 - Estimated cost (and estimated cost for the work to be performed under this authorization if the work authorization directive performance schedule exceeds the current contract);
 - Appropriate performance objectives, schedule, and milestone dates;
 - Cost, schedule, and all other reporting requirements;
 - Date of issue;
 - Contractor's signature; and
 - CO's signature.

- (e) Technical Direction. Government direction of the performance of all work authorized for performance under this Contract shall be in accordance with the Section I clause entitled Technical Direction and the Section H clause entitled, Performance/Technical Direction.
- (f) Modification of Work Authorization Directives. The CO may at any time and without notice issue changes to the work authorization directives within the SOW of the Contract requiring additional work, or directing the omission of, or changes to, the work. A proposal for adjustment in the budget of estimated costs and schedule of performance of work established in accordance with paragraph (b) of this clause shall be submitted by the Contractor in accordance with paragraphs (a) and (b) of this clause. In addition, the Contractor shall notify the CO immediately whenever the cost incurred to date plus the projected cost to complete the work on any work authorization directive is expected to exceed or underrun the estimated cost by ten percent of the work authorization directive. In this case, the Contractor shall submit a proposal for a change in the work authorization directive in accordance with paragraphs (a) and (b) of this clause.
- (g) Expenditure of Funds and Incurrence of Cost. The performance of work and the incurrence of cost in the execution of the SOW of this Contract shall be initiated only when authorized in accordance with the provisions of this subsection. The expenditure of monies by the Contractor in the performance of all authorized work shall be governed by the provisions of the Contract Clause entitled "Obligation of Funds."
- (h) Order of Precedence. This clause is of lesser order of precedence than the Contract Clause entitled "Allowable Costs, Base Fee, and Performance Fee (Management and Operating Contracts)"; "Obligation of Funds"; and "Payments and Advances." The Contractor is not authorized to incur costs on any work authorization directive which is not in compliance with the other terms and conditions of this Contract.
- (i) In the event there is a conflict between the requirements of this subsection and Section J, Appendix E, "List B/Applicable DOE Directives and Orders," as amended, the Contractor shall obtain guidance from the CO.
- (j) Responsibility to achieve Environment, Safety, Health, and Security Compliance. Notwithstanding the other provisions of this subsection, the Contractor has, in the event of an emergency, authority to take corrective actions as may be necessary to sustain operations in a manner consistent with applicable environmental, safety, health, and security statutes, regulations, and procedures. In the event that the Contractor takes such an action, the Contractor shall notify the CO within 24 hours after such action was initiated and, within 30 days after such action has been initiated, submit a proposal for adjustment in the estimated costs and schedule of performance of work established in accordance with paragraph (a) and (b) of this subsection.

H-55 WORK FOR OTHERS

- (a) Subject to the prior written approval of the CO, and in compliance with the other terms and conditions of this contract, the Contractor may perform activities for Non-Federal entities or other Federal Agencies, under the Contract, involving the use of equipment, facilities, or personnel. The Contractor's request for DOE approval shall set forth in detail the nature of the outside activities to be performed; the equipment, facilities or personnel required; and the financial and contractual arrangements proposed to pay for the cost of such work. The CO shall consider such a request, being guided, among other factors, by the current or future needs of DOE's programs for the equipment, facilities, or personnel to be utilized in the performance of such outside activities. Primary considerations in approving such work are that the proposed work will not place the Contractor in direct competition with domestic non-Federal entities; will not adversely impact execution of the Contractor assigned programs; and will not create a potentially detrimental future burden on commitment of DOE resources. If the CO approves such a request, the Contractor and DOE shall agree upon the terms and conditions which would apply to such work. This agreement may provide for receipt by the Government of all or part of such sum as represents the payment to be received by the Contractor for such outside activities; provided, however, that DOE may contribute the use of certain equipment, facilities, or personnel for the performance of such outside work if it determines that it desires to foster the activity in some measure. Except as otherwise approved by DOE, all clauses of this contract shall be deemed to be applicable to the performance of such work. This clause shall not be construed as amending or superseding the requirements of the SOW.
- (b) The Contractor shall promptly advise the CO of any advance notices of, or solicitations for, a major system acquisition requirement received from other Federal agencies pursuant to FAR 34.005 which would logically involve DOE facilities or resources operated or managed by the Contractor. The Contractor shall not respond to or otherwise propose to participate in response to the requirements of such solicitations unless the Contractor has obtained written approval of the CO.

H-56 WORKERS' COMPENSATION INSURANCE

- (a) The Contractor shall maintain workers' compensation insurance coverage pursuant to the requirements of FAR 28.307-2, FAR 28.308 and DEAR 970.2803-1. The insurance program must be approved by the CO and cover all eligible employees of the Contractor and comply with applicable Federal and State workers' compensation and occupational disease statutes.

- (b) The Contractor shall obtain a service-type insurance policy that endorses the Department of Energy Incurred Loss Retrospective Rating Insurance Plan unless a different arrangement is approved by the CO.
- (c) The Contractor shall submit to the CO an annual evaluation and analysis of workers' compensation cost as a percent of payroll in comparison with the percentage of payroll cost reported by a nationally recognized Cost of Risk Survey that has been pre-approved by the CO. The Contractor's self evaluation shall discuss:
 - Periodic audits of claims servicing units; and,
 - The reasonableness of self-insurance reserves and methods and assumptions used to closeout claims or losses to present value.
- (d) The Contractor, if it is a state institution covered under a corporate workers' compensation arrangement, shall provide the CO with a copy of the account statements including deposits, earnings, payments, losses, and administrative fees by the Contractor's financial institution on no less than an annual basis.
- (e) The Contractor shall obtain approval from the CO before making any significant change to its workers compensation coverage and shall furnish reports as may be required from time to time by the CO.

H-57 WORKFORCE TRANSITION

- (A) Hiring Preference. Subject to the availability of funds, the Contractor shall offer employment to all Incumbent Employees as defined in paragraph H-14(e) who, as of the date of Contract award, are in good standing and who hold regular appointments and are engaged in performance of work within the scope of work under this Contract. Individuals who hold regular appointments are individuals who are employed for an indefinite duration, with either a full-time work schedule of at least 40 hours per week, or a part-time work schedule of fewer than 40 hours per week, but more than 20 hours per week.
- (B) Discretionary Incumbent Management Employees Excepted. It is the Contractor's prerogative to establish its own management structure. Therefore, the hiring preference set forth in paragraph H-57(a) above is not applicable to Discretionary Incumbent Management Employees. Discretionary Incumbent Management Employees are individuals permanently assigned to the positions listed in Section L-41 Attachment E. The Contractor may offer employment to said employees, in either their current positions or other positions, at the Contractor's sole discretion.
 - (1) For those positions listed in Section L-41 Attachment E any changes in job positions or classifications shall be accompanied by a commensurate alteration in compensation.

- (2) Nothing in this paragraph shall preclude the Contractor from separating employees when in its judgment it is appropriate to do so based on the employee's performance or conduct.

H-58 POST CONTRACT RESPONSIBILITIES FOR PENSION AND OTHER BENEFIT PLANS

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