

PART I - SCHEDULE

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PART I - SCHEDULE

SECTION H SPECIAL CONTRACT REQUIREMENTS

H.1 CONSECUTIVE NUMBERING (MAY 1997)

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

H.2 MODIFICATION AUTHORITY (MAY 1997)

Notwithstanding any of the other clauses of this contract, the Contracting Officer shall be the only individual authorized to:

- (a) Accept nonconforming work,
- (b) Waive any requirement of this contract, or
- (c) Modify any term or condition of this contract.

H.3 OVERSIGHT OF CONTRACTOR (OCT 2004)

- (a) The parties recognize that DOE has entered into contract with UT-Battelle, LLC and with B&W Y-12 for the management and operation of Government-owned facilities located in Oak Ridge, Tennessee, at which the Contractor may be performing under this contract. In addition, DOE has entered into contract with UCOR for the management and accelerated clean-up of Government-owned facilities located in Oak Ridge, TN, at which the Contractor may be performing under this contract. Collectively, these contractors are Site Contractors. The Contractor hereby agrees that while it is performing work at this site(s) it shall comply with applicable Federal, state and local laws, regulations, DOE orders and directions, and with the standards and procedures of the Site Contractors with respect to health, safety, environmental, quality assurance, and safeguard and security matters. The Contractor agrees that its responsibility to comply with the foregoing is not reduced by the oversight provided by the Site Contractors nor is any of the Contractor's responsibilities assumed by the Site Contractors. The Contractor acknowledges that the performance by the Site Contractors is not intended to and does not reduce the Contractor's obligations, responsibilities, and/or accountability to DOE or any regulatory agency, including judicial body, responsible for audit, licensing, permitting, or other administrative review or adjudication capacity.
- (b) The Contractor agrees to cooperate fully and in good faith with DOE, UT-Battelle, B&W Y-12, and UCOR, so as to enable the Site Contractors to perform their contractual obligations, including evaluation of the Contractor's programs, procedures, systems, processes, and policies regarding health and safety,

- housekeeping, environmental requirements, radiation protection, security, quality assurance, industrial hygiene, criticality safety, and related operations. In performing such evaluations, the Contractor agrees to allow the Site Contractors access to documents relating to the foregoing, including but not limited to policies; procedures; operating instructions; manuals; training programs; qualification of employees consistent with the Privacy Act; quality assurance program; accident reports; insurance reports and claim files; and reports whether generated by the Contractor, subcontractor, prospective subcontractors, or a third party relating to such matters.
- (c) The Contractor acknowledges that the Site Contractors are authorized to suspend work of the Contractor or deny the Contractor access to the Government's facilities if the Contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public. The Contractor agrees to comply with any such Site Contractor direction.
- (d) The Contractor agrees to include in all subcontracts that may include on-site work under this contract, a clause which will obligate such subcontractors to comply with the provisions of this clause and to impose these obligations on all their subcontractors or suppliers, at any tier, which involve performance of work on-site. As used in this clause, subcontractor(s) and subcontract(s) include such at any tier.
- (e) The provisions set forth herein are also applicable to all successors to the above mentioned Site Contractors.

H.4 SMALL BUSINESS SUBCONTRACTING PLAN (SEPT 1999)

The Small Business Subcontracting Plan submitted by the Contractor for this contract, and approved in writing by the Contracting Officer, is a material part of this contract and is incorporated by reference and has the same force and effect as if attached hereto.

H.5 SAFEGUARDS AND SECURITY AWARENESS PROGRAM (MAY 1997)

The Contractor shall establish and maintain a Safeguards and Security Awareness Program acceptable to the Department of Energy (DOE) which satisfies the requirements of DOE Order 470.1 Chg. 1 (or current version referenced in Section J, Attachment D). A Safeguards Security Awareness Coordinator must be appointed and will be responsible for ensuring all employees, cleared and uncleared, who are assigned to a DOE facility or who are performing work involving access to classified facilities, classified information, or special nuclear materials are informed of their security responsibilities. Any subcontracts in support of this work shall require subcontractors to comply with the Contractor's Safeguards and Security Awareness Program.

H.6 QUALITY ASSURANCE SYSTEM ALTERNATE I (JUL 2004)

The Contractor shall establish and maintain a formal quality assurance program approved by the Department of Energy (DOE) that satisfies the requirements of DOE Order 414.1B

(or current version referenced in Section J, Attachment D). The quality assurance program shall encompass all areas of performance by the Contractor. If the Contractor has responsibility to perform activities in connection with a nuclear facility, as defined by Title 10, Section 830.3, Code of Federal Regulations, the applicability of the requirements in Section 830.120 shall be determined. Any subcontracts in support of this work shall require subcontractors to comply with the Contractor's approved quality assurance program.

H.7 CONFIDENTIALITY OF INFORMATION (MAY 1997)

- (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 Contracting Officer in writing. The foregoing obligations, however, shall not apply to:
 - (1) Information which, at the time of receipt by the Contractor, is in public domain;
 - (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
 - (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
 - (4) Information which the Contractor can demonstrate was received by it from a third party that did not require the Contractor to hold it in confidence.
- (b) The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, 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 Contracting Officer.
- (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 appropriate subcontracts.

H.8 INDIRECT COSTS (AUG 2012)

Appropriate cost principles are used to establish a unified, consistent, and reasonable basis for indirect cost. DOE as the ORAU cognizant Federal Agency and the Oak Ridge National Laboratory (ORNL) Site Office as having Administrative Contracting Officer (ACO) responsibility establishes the following ORAU-wide Indirect Cost process, applicable to all ORAU contracts, procurement instruments, and other ORAU agreements:

- (a) Annual fixed indirect cost rates will be established based on estimated costs to be incurred during each fiscal year period and be used throughout the year for billing and reimbursement purposes.
- (b) Differences between the estimated and actual indirect cost for the period covered by the rates will be carried forward as an adjustment to the rate computations of a subsequent period.
- (c) Annual actual and proposed fixed indirect cost related rates will be reviewed, audited, and negotiated accordingly.

H.9 REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR (MAY 1997)

The Representations, Certifications, and Other Statements of the Offeror, dated October 4, 2005, for this contract are, by reference, hereby incorporated in and made a part of this contract.

H.10 WORKFORCE TRANSITION AND MANAGEMENT (NOV 2004)

- (a) *Right of First Refusal.* At the time the Contractor (including any teaming partners, subcontractors, and joint ventures) becomes fully responsible for the Performance Work Statement, incumbent contractor employees will become employees of the Contractor. "Incumbent contractor employees" is defined as all Oak Ridge Associated Universities (ORAU) full-time and part-time regular employees whose predominant assignment is with ORISE and who were on the payroll of ORAU prior to the end of the contract period. "Incumbent contractor employees" does not include Key Personnel identified in the clause in Section H entitled "Key Personnel," of Contract No. DE-AC05-00OR22750, or other non-clerical direct reports to the Director, ORISE. This provision is known as the Right of First Refusal.

The requirements of this section do not preclude the Contractor from conducting a reorganization as necessary after becoming responsible for the work, subject to prior coordination with DOE.

- (b) *Pay and Benefits.* Incumbent contractor employees shall receive a pay and benefits package that is comparable in the aggregate, but may not necessarily mirror their previous pay and benefits. The Contractor shall recognize the incumbent employees' company service as of the date of contract transition for the purpose of determining benefit eligibility.

All new employees of the Contractor, not on the payroll of ORAU prior to the end of the contract period, shall receive a competitive overall pay and benefits package that provides for market-based retirement and medical benefits that are competitive to their industry. Contractors shall develop and implement welfare benefit programs that meet the tests of allowability and reasonableness established by the Federal Acquisition Regulation 31.205-6.

The Contractor is free to set its own terms and conditions of employment, subject to any collective bargaining obligations, so long as (1) those packages include market-based retirement and medical benefits and are competitive for their industry, and (2) the Contractor maintains benefit plans that are equal in cost to the aggregate cost of benefits provided by the predecessor contractor as is consistent with the Service Contract Act.

The Contractor shall comply with all applicable laws, including the Internal Revenue Code (IRC), the Employee Retirement Income Security Act (ERISA), and the Service Contract Act.

- (c) *Severance Pay.* It is the Government's position in accordance with FAR 31.205-6(g)(3) that no severance pay will be payable to the incumbent contractor employees, on the date the incumbent contractor employees transition to the Contractor, since the transition occurs under substantially equal employment conditions. Likewise, no severance pay will be payable to former ORAU employees who were excluded from the incumbent contractor employees as defined in paragraph (a) above that are hired by the Contractor, coincident with initial staffing and takeover of the contract work.
- (d) *Research Participant Employees.* The Contractor conducts a postgraduate academic program leading to placement of research participants at Oak Ridge National Laboratory and other DOE sites. The participants are defined as employees of the contractor and receive salaries and benefits. These employees are exempt from the requirements of paragraphs (a), (b), and (c) above.
- (e) *Pension and Other Benefit Programs:* The program of employee pensions and other benefits employed by the Contractor shall support at a reasonable cost the effective recruitment and retention of a highly skilled workforce at ORISE. Cost reimbursement of benefit plans will be based on Contracting Officer approval of Contractor actions pursuant to an approved "Employee Benefits Value Study" and an "Employee Benefits Cost Survey Comparison." No presumption of allowability will exist when the Contractor implements a new benefits plan or makes changes to

existing employee benefit plans until the Contracting Officer makes a determination of cost allowability for reimbursement of changes to the program. Unless required by State or Federal statute, funding in advance for post retirement benefits other than pensions is not allowable.

- (1) Unless stated otherwise, or as directed by the Contracting Officer, within 30 days of award or extension and annually thereafter, and prior to implementation of any benefit change, the Contractor shall submit (i) and (ii) below:
 - (i) An Employee Benefits Value Study (ben-val) Measure, every two years, which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor measured against the RV of benefit programs offered by comparator companies approved by the Contracting Officer. To the extent that the value study does not address post retirement benefits other than pension, the Contractor shall provide separate post retirement benefit cost and plan design data comparison with external benchmarks for nationally recognized, and Contracting Officer approved, survey sources; and,
 - (ii) An Employee Benefits Cost Survey Comparison (cost survey) Method every year that analyzes the Contractor's employee benefits cost on a per capita basis per full time equivalent employee 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.

This information shall be submitted to the Contracting Officer in advance for approval of application of the changes under the contract and for a determination as to whether the costs incurred are consistent with the Contractor's documented program plan and are deemed allowable pursuant to FAR 31.205-6.

- (2) When net benefit value and/or per capita cost exceed the comparator group by more than 5 percent, submit corrective action plans, when requested by the Contracting Officer, to achieve a net benefit value and per capita cost not to exceed the comparator group by more than 5 percent.
- (3) As required by the Contracting Officer, submit an analysis of the specific plan costs that are above the per capita cost range and a corrective action plan to achieve conformance with a Contracting Officer directed per capita cost range.
- (4) Implement corrective action plans determined to be reimbursable by the Contracting Officer to align employee benefit programs with the target in subparagraph (e)(2).
- (5) Annually submit the Report of Contractor Expenditures for Employee Supplemental Compensation.

- (f) *Pension Plans*: The Contractor shall establish or maintain a separate pension plan(s), distinct from any corporate or other pension plan, meeting the requirements of the IRC and ERISA, that recognizes service credit earned at ORISE.
- (1) Contractor policies, practices, and procedures used in the administration of pension plans shall be consistent with law and regulation.
 - (2) Each pension plan shall cover only Contractor employees whose predominant assignment is with ORISE and shall stand alone as a separate pension plan distinct from a Contractor's corporate or other pension plan.
 - (3) The Contractor shall submit the information required under (i) and (ii), below, as applicable, prior to the adoption of any changes to the pension plan, 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 plan and are deemed allowable pursuant to FAR 31.205-6.
 - (i) For proposed changes to pension plans and pension plan funding, an analysis of the impact of any proposed changes and an analysis of relative benefit value must be provided; and,
 - (ii) The Contractor shall obtain the advance written approval of the Contracting Officer for 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 pension plan, and on relative benefit value, if applicable.
 - (4) At contract expiration or termination as a part of the transition to another entity awarded the ORISE contract, the Contractor shall transfer sponsorship of the site-specific pension plan(s) covering employees at ORISE, as directed by DOE.
 - (5) Pension Plan Terminations. The Contractor shall not terminate any pension plan (commingled or site-specific) without at least 60 days notice to and the approval of the Contracting Officer prior to the scheduled date of plan termination.
 - (6) Post-Contract Responsibilities for Pension and Benefit Plans.

If this contract expires or terminates without a follow-on contract, notwithstanding any other obligations and requirements concerning expiration or termination under any other clause of this contract, including but not limited to the clause in Section I entitled "Termination," the following actions shall occur:

- (i) The Contractor shall continue as plan sponsor of all existing and follow-on pension and welfare benefit plans covering site personnel with

responsibility for management and administration of the plans, as directed by DOE, at DOE's sole discretion.

- (ii) During the final 12 months of this contract, if the parties have not reached agreement on these matters, the Contracting Officer shall provide written direction regarding the provision of post-contract pension and welfare benefits.
- (iii) Notwithstanding termination for convenience or default, the contract may be extended as appropriate for purposes deemed necessary by the Contracting Officer, including, but not limited to, obligating funds to pay the Contractor for costs incurred for the Contractor's existing and, if applicable, follow-on, site pension and welfare benefit plans. Such costs shall continue to be allowable in accordance with applicable laws and regulations.

H.11 PERMITS, APPLICATIONS, LICENSES, AND OTHER REGULATORY DOCUMENTS (NOV 2004)

- (a) The Contractor must ensure any licenses, permits, other approvals or authorizations for conducting pertinent activities at ORISE are obtained. The Contractor is responsible for complying with all permits, licenses, certifications, authorizations and approvals from Federal, state, and local regulatory agencies that are necessary for operations under this contract (hereinafter referred to collectively as 'permits'). Except as specifically provided in this section and to the extent not prohibited by law or cognizant regulatory authority, the Contractor (or, if applicable, its subcontractors) will be the sole applicant for any such permits required for its activities. The Contractor must take all appropriate actions to obtain transfer of existing applicable permits, and DOE will use all reasonable means to facilitate transfer of existing permits. If DOE determines it is appropriate or if DOE is required by cognizant regulatory authority to sign permit applications, the Contractor (or, if applicable, its subcontractors) must also sign as operator or similar designation reflecting its responsibility under the permit unless DOE waives this requirement in writing.
- (b) The Contractor must submit for DOE's review and comment all permit applications, reports or other documents required to be submitted to the cognizant regulatory authorities. Such draft documents must be provided to DOE within a time frame, identified by DOE, sufficient to allow DOE substantive review and comment; and DOE will perform such substantive review and comment deemed necessary within such time frame. When providing DOE with documents that are to be signed or co-signed by DOE, the Contractor will accompany such document with a certification statement, signed by the appropriate Contractor corporate officer, attesting to DOE that the document has been prepared in accordance with all applicable requirements and the information is, to the best of its knowledge and belief, true, accurate, and complete.

- (c) Except as specifically provided in this clause and to the extent not prohibited by law or cognizant regulator authority, the Contractor (or, if applicable, its subcontractors) will be the signatory for reports, hazardous waste manifests, and other similar documents required under environmental permits or applicable environmental laws and regulations unless DOE waives this requirement in writing.
- (d) 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. Under no circumstances shall the Contractor or its parent be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.
- (e) 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, or DOE will accept responsibility for such permits and the Contractor shall be relieved of all future liability and responsibility resulting from the acts or omissions of the successor Contractor or DOE.

H.12 CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATION OR ALLEGED VIOLATIONS, FINES, AND PENALTIES (NOV 2004)

- (a) The Contractor shall accept, in its own name, services of notices of violations or alleged violations (NOVs/NOAVs) issued by Federal or state regulators to the Contractor resulting from the Contractor's performance of work under this contract, without regard to liability. The allowability of the costs associated with fines and penalties shall be subject to the other provisions of this Contract.
- (b) With advance notice given to DOE, the Contractor shall conduct negotiations with regulators regarding NOVs/NOAVs and fines and penalties issued in its own name; however, the Contractor shall not make any commitments or offers to regulators that will bind the Government, including monetary obligations, without receiving written concurrence from the Contracting Officer or his/her authorized representative 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.
- (c) The Contractor shall notify DOE promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.

H.13 ALLOCATION OF RESPONSIBILITIES FOR CONTRACTOR ENVIRONMENTAL COMPLIANCE ACTIVITIES (NOV 2004)

- (a) This clause allocates the responsibilities of DOE and the Contractor, referred to collectively as 'the parties' for implementing the environmental requirements at

facilities within the scope of the contract. In this clause, the term ‘environmental requirements’ means requirements imposed by applicable Federal, state and local environmental laws and regulations, including, without limitation, statutes, ordinances, regulations, court orders, consent decrees, administrative orders or compliance agreements, consent orders, permits, and licenses.

- (b) Liability and responsibility for civil fines or penalties arising from or related to violations of environmental requirements shall be borne by the party that caused the violation irrespective of the fact that the cognizant regulatory authority may assess any such fine or penalty upon either party or both parties without regard to the allocation of responsibility or liability under this contract. This contractual allocation of liability for any such fine or penalty is effective regardless of which party signs permit applications, manifests, reports or other required documents, is a permittee, or is the named subject of an enforcement action or assessment of a fine or penalty.
- (c) Regardless of which party to this contract is the named subject of an enforcement action for noncompliance with environmental requirements by the cognizant regulatory authority, liability for payment of any fine or penalty will be governed by provisions of this contract related to allowable costs. If the named subject of an enforcement action or assessment of a fine or penalty is DOE and the fine or penalty will not otherwise be reimbursable under the allowable cost and preexisting conditions provisions of this contract if the Contractor was the named subject of the enforcement action, the Contractor will either pay the fine or penalty or reimburse the DOE (if DOE pays the fine or penalty). The governing provisions of the contract include, without limitation, the clause in Section I, DEAR 970-5231-4 entitled "Preexisting Conditions."

H.14 PRIVACY ACT SYSTEMS OF RECORDS (JUL 2005)

In accordance with the Privacy Act of 1974, 5 U.S.C. 552(a), and implementing DOE Regulations (10 CFR 1008), the Contractor shall design, develop, or operate the following systems of records on individuals to accomplish an agency function to which the requirements of the Privacy Act, 5 U.S.C. 552(a), are deemed applicable:

<u>DOE System Number</u>	<u>Title</u>
5	Personnel Records of Former Contractor Employees
10	Worker Advocacy Records
33	Personnel Medical Records
35	Personnel Radiation Exposure Records
71	The Radiation Accident Registry
72	The Department of Energy Radiation Study Registry
73	The US-DTPA Registry
82	Grant and Contract Records for Research Projects, Science Education, and Related Activities

If DOE requires the Contractor to design, develop, or maintain additional systems of Government owned records on individuals to accomplish an agency function, the Contracting Officer, or designee, shall notify the Contractor in writing and such Privacy Act system shall be deemed added to the above list whether incorporated by contract modification or not. Additional systems of records the Contracting Officer may require the Contractor to design, develop, or maintain include those listed at 68 FR 38756. The parties shall mutually agree to a schedule for implementation of the Privacy Act with respect to each such system.

H.15 ADVANCE UNDERSTANDING ON HUMAN RESOURCE COSTS (NOV 2004)

- (a) DOE intends to reach an advance understanding with the Contractor on certain human resource costs including pay and benefit package(s) for the base and option periods that will be reimbursed under this contract. These costs are those associated with human resource policies and systems which the Contractor intends to apply to work under this contract. Any deviation from the advance understanding must be approved by DOE before such costs incurred will be allowable (either direct or indirect) under this contract. The advance understanding on Human Resource Costs will be part of this contract and included in Attachment H of Section J.
- (b) The DOE also intends to reach an advance understanding with the Contractor on the reasonable, allowable, and allocable post-retirement benefit costs for retiree health insurance for current and former employees with service under Contract No. DE-AC05-76OR00033. The traditional method of reimbursing allowable post-retirement benefit claimed costs has been on the "pay-as-you-go" basis. This advance understanding will be negotiated after contract award.
- (c) Costs incurred with regard to relocating an employee to the work site are allowable in accordance with FAR 31.205-35, Relocation Costs. However, the Contractor shall keep the number of employees relocated to a minimum. The Contractor shall submit a plan for the first year of the base performance period, and every year thereafter, for advance written approval of the Contracting Officer regarding the temporary and permanent relocation of all employees to the local area and charging the cost, or any portion thereof, to the contract. Unless otherwise agreed, exit relocation costs are not allowable.

H.16 WORK AUTHORIZATION CONTROL SYSTEM (NOV 2004)

No activities in accordance with the clause in Section C entitled "Performance Work Statement," shall be conducted and no costs shall be incurred by the Contractor until the Contracting Officer or designee has issued written guidance and approval.

H.17 PERFORMANCE EVALUATION AND MEASUREMENT PLAN (DEC 2006)

Prior to the beginning of each evaluation period, the Government will establish a Contractor Performance Evaluation and Measurement Plan to serve as the primary, but not sole, means for assessment of Contractor performance upon which the determination of award fee shall be based. The Plan will outline the methodology by which the total available fee amount will be allocated and the amount earned determined. The Plan may be revised unilaterally by the Government during the period of performance.

The Government shall establish Performance Goals encompassing Section C-1, Performance Work Statement. The Plan will include Performance Objectives to be assessed in evaluating the Performance Goals. The Performance Objectives will be limited in number and focus on results to drive improved performance and increased effective and efficient management of the Contractor.

A copy of the Plan shall be provided to the Contractor 15 days prior to the start of the evaluation period. Within 30 days after the end of the evaluation period, the Contractor shall submit a self-evaluation of performance which may be given such consideration, if any, as the Government may find appropriate in assessing Contractor performance. The self-evaluation shall include an overall summary of performance, and a summary of key strengths and weaknesses related to the Contractor's performance. Where deficiencies in performance are noted, the Contractor shall describe the actions planned or taken to correct such deficiencies and avoid their recurrence.

H.18 ASSIGNMENT OF EXISTING AGREEMENTS AND SUBCONTRACTS (NOV 2004)

- (a) During contract transition, applicable existing agreements and subcontracts entered into by the incumbent contractor will be identified and assigned to the successor Contractor upon the effective date of the assumption of full responsibility under this contract. The agreements and subcontracts may include but not be limited to all subcontracts and purchase orders, licenses, agreements with domestic and foreign research organizations, agreements with universities and colleges, agreements with local and state Governments, partnership agreements, and other similar agreements.
- (b) The terms and conditions of these agreements and subcontracts, as they exist when signed, shall remain in full force and effect unless modified by the Contractor and the agreement participant(s) or the Contractor and the subcontractor.

H.19 CLARIFICATION BETWEEN DRUG-FREE WORKPLACE AND WORKPLACE SUBSTANCE ABUSE CLAUSES (NOV 2004)

The clause in Section I, FAR 52.223-6, entitled "Drug-Free Workplace," is applicable to employees not located at DOE owned or leased facilities. The clause in Section I, DEAR 970.5223-4, entitled "Workplace Substance Abuse Programs at DOE Sites," is applicable to employees located at DOE owned or leased facilities.

H.20 SECURITY CLEARANCES (NOV 2004)

The Director (or equivalent) and other management personnel responsible for the operations of the REAC/TS, national security activities, and emergency management activities must possess a DOE "Q" security clearance on the date the Contractor assumes responsibility for the contract, or demonstrate the ability to obtain such clearance on the award date of the contract.

H.21 DIVERSITY PROGRAM (MAY 1997)

- (a) The Contractor shall develop and implement a Diversity Program in support of the DOE Diversity Initiative. A Diversity Plan covering the full period of performance (base and option periods) shall be submitted to the Contracting Officer for approval within 60 days after the effective date of the contract. Once the Diversity Plan is approved by the Contracting Officer, the Contractor shall implement the plan within 30 days.
- (b) The Diversity Plan shall address, at a minimum, the Contractor's approach to ensure an effective Diversity Program (including addressing applicable Affirmative Action and Equal Employment Opportunity regulations) to include:

- (1) A statement of the Contractor's policies and practices
- (2) Planned initiatives and activities which demonstrate a commitment to a Diversity program including recruitment strategies for hiring a diverse work force.

The Diversity Plan shall also address, as a minimum, the Contractor's approach for promoting diversity through:

- (1) The Contractor's work force
 - (2) Educational outreach, including a mentor/protégé program
 - (3) Stakeholder involvement and outreach
 - (4) Subcontracting
 - (5) Economic development
- (c) An annual Diversity Report shall be submitted pursuant to Section J, Attachment A, entitled "Reporting Requirements." This report shall provide a list of accomplishments achieved both internally and externally and projected developments during the current reporting period. The report shall also list any proposed changes to the Diversity Plan which shall be subject to Contracting Officer approval.

H.22 PROTECTION OF GOVERNMENT PROPERTY – MANAGEMENT OF HIGH RISK PROPERTY AND CLASSIFIED MATERIALS (NOV 2004)

- (a) The Contractor shall take all reasonable precautions, and such other actions as may be directed by the Contracting Officer, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect Government property in the Contractor's possession or custody.
- (b) In addition, the Contractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials through the life cycle of the property and materials consistent with the policies, practices, and procedures for property management contained in the Federal Property Management Regulations (41 CFR Chapter 101), the Department of Energy Property Management Regulations (41 CFR Chapter 109), and other applicable regulations.
- (c) High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. High-risk property includes proliferation sensitive, nuclear related dual use, export controlled, chemically or radioactively contaminated, hazardous, and specially designed and prepared property, including property on the militarily critical technologies list.

H.23 ACCESS TO AND OWNERSHIP OF RECORDS (NOV 2004)

- (a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the Contractor in its performance of this contract shall be the property of the Government and shall be delivered to the Government or otherwise disposed of by the Contractor in accordance with federal requirements established by the National Archives and Records Administration or as the Contracting Officer may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon the completion or termination of the contract.
- (b) Contractor-owned records. The following records are considered the property of the Contractor and are not within the scope of paragraph (a) of this clause. However, records may be audited by DOE under the clause in Section I, entitled "Audit and Records – Negotiation."
 - (1) Employment-related records (including, but not limited to the following: workers' compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns, and other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health-related records, except for those records described

by the contract as being maintained in Privacy Act systems of records as published in Federal Register system notices by DOE;

- (2) Confidential Contractor financial information, and correspondence between the Contractor and other segments of the Contractor;
 - (3) Records relating to any procurement action by the Contractor; and
 - (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges.
- (c) Records retention/disposition standards. Special records retention standards, described in DOE Order 200.1, Information Management Program (version in effect on the effective date of the contract), as directed by the National Archives and Records Administration in 36 CFR, Part 300 to the end, are applicable for the classes of Government owned records as described in paragraph (a) above. Records will be destroyed as appropriate based on guidance directed in 36 CFR, Part 300 to the end, or as directed by the Contracting Officer or his designee. The Contractor will also be required to comply with any additional records retention guidance established by DOE.
- (d) As directed by the Contracting Officer, the Contractor shall grant access to all DOE records in its possession as may be required in conduct of normal DOE business. If any inspection or evaluation is made by the Government on the premises of the Contractor or a subcontractor, the Contractor shall provide and shall require his subcontractors to provide all reasonable facilities and assistance for the convenience of the Government representatives in the performance of their duties.
- (e) The Contractor shall include the requirements of this clause in all subcontracts.

H.24 LOBBYING RESTRICTION (ENERGY AND WATER ACT 2005) (APR 2005)

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

H.25 LOBBYING RESTRICTION (INTERIOR ACT 2005) (APR 2005)

The Contractor agrees that none of the funds obligated on this award shall be made available for any activity or the publication or distribution of literature that in anyway tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation.

H.26 CLARIFICATION FOR APPLICABILITY OF THE CLAUSES IN SECTION I

**ENTITLED “PREEXISTING CONDITIONS – ALTERNATE I” AND
“PREEXISTING CONDITIONS – ALTERNATE II” (JUN 2005)**

These clauses are applicable in conjunction with the operation and maintenance of the Government-furnished facilities described in Section J, Attachment C. The clause entitled “Preexisting Conditions – Alternate I” is applicable to the Contractor if the incumbent contractor is selected for award. The clause entitled “Preexisting Conditions – Alternate II” is applicable to the Contractor if other than the incumbent contractor is selected for award.

**H.27 CLARIFICATION OF REFERENCES IN SECTION I, THE CLAUSE ENTITLED
“PAYMENTS AND ADVANCES” (JUN 2005)**

- (a) In paragraph (a) of the clause entitled “Payments and Advances,” the reference to the “...Government’s Determination of Total Available Fee Amount Earned in accordance with the clause of this contract entitled “Total Available Fee: Base Fee Amount and Performance Amount...” should be to the “...determination of award fee amount earned in accordance with the clause in Section B entitled “Determination of Award Fee Earned.”
- (b) In paragraph (e)(2)(iv)(B) the reference to DEAR 970.5228-1, “Insurance – Litigation and Claims” should be to DEAR 952.231-71, “Insurance – Litigation and Claims.”

H.28 CLARIFICATION FOR METHOD OF PAYMENT (JUN 2005)

The clauses in Section I entitled “Allowable Cost and Payment” and “Payments and Advances” address the method of payment to the Contractor for work performed under this contract. It is the Government’s intent to make payment in accordance with the procedures described in the clause entitled “Payments and Advances.”

**H.29 COMPLIANCE WITH FEDERAL INFORMATION PROCESSING STANDARD
PUBLICATION 201 (FIPS Pub 201) (SEP 2005)**

This contract involves the acquisition of hardware, software, or services related to physical access to Federal premises or electronic authentication or access control to a Federal agency’s computer systems and electronic infrastructure. Any such hardware, software, or services delivered under this contract shall comply with FIPS Pub 201, and FIPS 201 shall take precedence over any conflicting performance requirement of this contract. Should the Contractor find that the statement of work or specifications of this contract do not conform to FIPS Pub 201, it shall notify the Contracting Officer of such nonconformance and shall act in accordance with instructions of the Contracting Officer

This clause shall flow down to subcontractors at any tier.

H.30 ELECTRONIC SUBCONTRACTING REPORTING SYSTEM (OCT 2005)

The requirement for the submittal of paper versions of the Standard Form (SF) 294, Subcontracting Reports for Individual Contracts, and SF 295, Summary Subcontract Reports, as provided in FAR 52.219-9(j) is hereby deleted and is replaced with the electronic submittal of data under the Electronic Subcontract Reporting System (eSRS).

The offeror's subcontracting plan shall include assurances that the offeror will (1) submit the Individual Subcontracting Reports and Summary Subcontracting Reports under the eSRS and (2) ensure that its subcontractors agree to submit Individual Subcontracting Reports and Summary Subcontracting Reports at all tiers, in eSRS.

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.31 ACCESS TO DOE-OWNED OR LEASED FACILITIES (OCT 2005)

(a) The performance of this contract requires that employees of the Contractor have physical access to DOE-owned or leased facilities; however, this clause does not control requirements for an employee's obtaining a security clearance. 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 further understands that it must propose employees whose background offers the best prospect of obtaining a security badge approval for access, considering the following criteria, which are not all inclusive and may vary depending on access requirements:

- (1) is the employee, or is the employee suspected of being, a terrorist?
- (2) is the employee the subject of an outstanding warrant?
- (3) has the employee deliberately omitted, concealed, or falsified relevant and material facts from any Questionnaire for National Security Positions (SF-86), Questionnaire for Non-Sensitive Positions (SF-85), or similar form?
- (4) has the employee presented false or forged identity source documents?
- (5) has the employee been barred from Federal employment?
- (6) is the employee currently awaiting a hearing or trial or has the employee been convicted of a crime punishable by imprisonment of six (6) months or longer?
- (7) is the employee awaiting or serving a form of pre-prosecution probation, suspended or deferred sentencing, probation or parole in conjunction with an arrest or criminal charges against the individual for a crime that is punishable by imprisonment of six (6) months or longer?

(b) The Contractor shall assure:

- (1) In initiating the process for gaining physical access, (i) compliance with procedures established by DOE in providing its employee(s) with any forms directed by DOE, (ii) that the employee properly completes any forms, and (iii) that the employee(s) submits the forms to the person designated by the Contracting Officer.
 - (2) In completing the process for gaining physical access, that its employee (i) cooperates with DOE officials responsible for granting access to DOE -owned or leased facilities and (ii) provides 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 forms referred to in subparagraph (b)(1) of this clause 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 Contracting Officer 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 (1) the termination of this Contract; (2) the expiration of this Contract; (3) the termination of employment on this Contract by an individual employee; or (4) 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.32 CONTRACTOR USE OF GOVERNMENT PROPERTY (APR 2006)

In accordance with the provisions of the clause in Section I, FAR 52.245-9 entitled Use and Charges, this clause sets forth the authorization under which the Contractor may utilize the Government-furnished equipment and buildings associated with this contract for commercial activities.

- (a) **Non-interference with Government Work**
The Contractor recognizes that the primary objective of Contract DE-AC05-06OR23100 is the performance of work in support of DOE, as detailed in the Performance Work Statement. The Contractor further recognizes that the use of Government-furnished equipment and buildings for commercial purposes is a privilege extended by DOE. The Contractor's commercial activities utilizing the Government-furnished equipment and buildings must be compatible with existing or

planned Government activities and must not interfere with the Contractor's performance of work under Contract DE-AC05-06OR23100.

The Government shall have the right to suspend its approval for contractor use of Government-furnished equipment and buildings, or to withdraw its approval, at any time. The Government will provide reasonable advance written notice to the Contractor, if practicable.

(b) Unavailability of Government-furnished Equipment and Buildings

The unavailability to the Contractor of said Government-furnished equipment and buildings for commercial purposes for any reason, including, but not limited to, action by the Contracting Officer, shall not constitute a breach of this agreement and no claims for damages or reimbursement of costs of any nature, relating to the unavailability of said machinery and equipment, shall be considered under this contract. In the event of said unavailability of equipment and buildings, the Contractor shall continue performance in accordance with the requirements of this contract.

(c) Covered Equipment and Buildings

The Government property authorized for contractor use in performing commercial activities includes all Government-furnished buildings, equipment and other property located within the ORISE facilities, including, without limitation, desks, chairs, office equipment, and computers, and associated software and business systems. The use of Government-furnished buildings carries with it the incidental use of associated utilities, such as telephone, electrical, and water service.

(d) Reimbursement Method

With respect to Contract DE-AC05-06OR23100, it is in the Government's best interest to make available to the Contractor Government-furnished property for commercial work subject to a rental charge as described below. In reaching this conclusion, the savings to the Government related to providing such property were considered.

The Contractor, a non-profit educational institution, shall reimburse the Government by offset or direct payment for commercial activities of the Contractor utilizing ORISE resources through the application of its approved indirect cost structure that is common to both corporate and Government projects. Costs not directly associated with specific ORISE or Corporate projects or cost objectives, but common to both, will be collected in indirect cost pools and distributed in like manner to both corporate and ORISE projects. The Contractor will pay its calculated share, thereby reducing the cost to the Government of ORISE operations. Through the application of this reimbursement method, the Government receives a benefit, savings through indirect cost sharing. By charging no additional rental use, the Government

encourages the Contractor to increase its corporate work which will increase the Government savings through its pro-rata share of indirect costs. Should the Contractor's anticipated use of Government property for corporate activities exceed 10 percent measured on a labor hour basis, the Contractor shall notify the Government and the charge for use of Government equipment and buildings shall be reconsidered.

(e) Personnel costs

All direct labor and related benefit costs associated with commercial activities of personnel normally dedicated to the ORISE contract shall be direct charged to the Contractor corporate labor accounts for all periods of time when the said employees are engaged in commercial activities.

(f) Indemnification of the Government

The Contractor shall indemnify and hold harmless the Government and DOE, their officers, agents, servants, and employees against liability and claims of any kind (including costs and expenses incurred) arising by reason of or incident to the use by the Contractor of Government equipment and buildings for commercial activities, other than in the performance of work under Contract DE-AC05-06OR23100.

H.33 COMPLIANCE WITH INTERNET PROTOCOL VERSION 6 (IPV6) IN ACQUIRING INFORMATION TECHNOLOGY (DEC 2005)

This contract involves the acquisition of Information Technology (IT) that uses Internet Protocol (IP) technology. The Contractor agrees that: (1) all deliverables that involve IT that uses 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 and is not initially compliant, the Contractor agrees to: (1) obtain the Contracting Officer'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.

Should the Contractor find that the statement of work or specifications of this contract do not conform to the IPv6 standard, it must notify the Contracting Officer of such nonconformance and act in accordance with instructions of the Contracting Officer.

H.34 CLARIFICATION FOR PARAGRAPH (f), PENSION PLANS, OF THE H.11 WORKFORCE TRANSITION AND MANAGEMENT (2004) CLAUSE

The specific language in paragraph (f) requiring the Contractor's pension plan to be separate and distinct from any corporate or other plan would not be applicable to a

contract when the Contractor exclusively offers a defined contribution pension plan. In addition, when the Contractor's pension contributions are fully and immediately vested and not dependent upon an employee's service credit, the requirement to recognize service credit earned at ORISE would not be applicable.

H.35 SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (APR 2009)

Preamble:

Work performed under this contract will be funded, in whole or in part, with funds appropriated by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act or Act). The Recovery Act's purposes are to stimulate the economy and to create and retain jobs. The Act gives preference to activities that can be started and completed expeditiously, including a goal of using at least 50 percent of the funds made available by it for activities that can be initiated not later than June 17, 2009.

Contractors should begin planning activities for their first tier subcontractors, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related Guidance. For projects funded by sources other than the Recovery Act, Contractors should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. The Contractor will be provided these details as they become available. The Contractor must comply with all requirements of the Act. If the contractor believes there is any inconsistency between ARRA requirements and current contract requirements, the issues will be referred to the Contracting Officer for reconciliation.

Be advised that special provisions may apply to projects funded by the Act relating to:

- Reporting, tracking and segregation of incurred costs;
- Reporting on job creation and preservation;
- Publication of information on the Internet;
- Protecting whistleblowers; and
- Requiring prompt referral of evidence of a false claim to the Inspector General.

Definitions:

For purposes of this clause, "Covered Funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as

Recovery Act funds in the contract and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to Covered Funds - the contractor or subcontractor, as the case may be, if the contractor or subcontractor is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving Covered Funds; or with respect to Covered Funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

A. Flow Down Provision

This clause must be included in every first-tier subcontract.

B. Segregation and Payment of Costs

Contractor must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects. Where Recovery Act funds are authorized to be used in conjunction with other funding to complete projects, tracking and reporting must be separate from the original funding source to meet the reporting requirements of the Recovery Act and OMB Guidance.

Invoices must clearly indicate the portion of the requested payment that is for work funded by the Recovery Act.

Note: For contractors currently using drawdown on a letter of credit, the current procedure remains in effect and is used for Recovery Act activity in lieu of invoicing.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Wage Rates

All laborers and mechanics employed by contractors and subcontractors on projects

funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code. See <http://www.dol.gov/esa/whd/contracts/dbra.htm>

E. Publication

Information about this agreement will be published on the Internet and linked to the website www.recovery.gov, maintained by the Accountability and Transparency Board (the Board). The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

F. Registration requirements

Contractor shall ensure that all first-tier subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR) no later than the date the first report is due under FAR 52.204-11 American Recovery and Reinvestment Act - Reporting Requirements.

G. Utilization of Small Business

Contractor shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.

H.36 MODIFICATION DEFINITIZATION

- (a) The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive modification for the Recovery Act work directed under this modification.
- (b) The schedule for definitizing this modification is as follows:

<u>Action</u>	<u>Date</u>
Contractor submits technical, cost, and fee proposal	30 days after effective date of this modification
Commence negotiations	150 days after effective date of this modification

Mutual agreement on definitization of Recovery Act work	175 days after effective date of this modification
Contractor submits certificate of current cost or pricing data	175 days after effective date of this modification
Execute definitization contract modification	180 days after effective date of this modification

- (c) If agreement on a definitive modification is not reached by the target date in paragraph (b) of this section, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause.

H.37 SECURITY QUALIFICATIONS (JAN 2006)

- (a) The Contractor may be required to perform work in designated security areas or work with documents or information which may require an access authorization (clearance). Additionally, the scope of their work may require enrollment into the Human Reliability Program (HRP). The Contractor shall ensure that all personnel assigned under this contract and working with classified possess a DOE "Q" or "L" access authorization (clearance) matching the classification level of the data and information the employee will be required to work on in the performance of their assigned tasks.
- (b) In the case of those individuals that do not require a "Q" or "L" they will possess, if required, as a minimum a Limited Site Specific Only (LSSO) badge and meet all access authorization requirements per HSPD-12, DOE N 206.4, and local procedures. For employees requiring DOE "Q" or "L" security clearances and/or LSSO badge, the Contractor shall not employ anyone who is not a citizen of the United States. (Clearance-Access authorizations are granted by the DOE pursuant to 10 CFR Part 710.) Security Badges must be worn properly at all times while working at any of the DOE and NNSA facilities.
- (c) Clearances will be provided and paid for by DOE. The request for clearance and renewal of clearances must be justified based on actual job performance requirements. The Contracting Officer (CO), in coordination with the appropriate federal security representative, may waive the clearance requirement for personnel not involved with classified information while the appropriate access authorizations or badges are being processed, or for personnel associated with the program for short periods of time, such as consultants. In these cases, security requirements regarding these circumstances will be followed. The Contractor, on a case-by-case basis, will provide its own cleared escorts as needed. The Contracting Officer's Representative or Contract Technical Monitor (COR/CTM) will approve contractor personnel for

escort privileges and provide escort training.

- (d) The Contractor shall be required to conduct pre-employment investigative screening of prospective employees in order to ensure trustworthiness and reliability for all individuals who do not possess a DOE "Q" access authorization. For these individuals, the Contractor shall provide certification to the COR that an investigative screening has been completed prior to employment. The certification shall include, as a minimum, verification of personal identity, previous employment and education, and the results of a credit and law enforcement check.
- (e) Requests for access authorization shall not be submitted until the contract has been awarded, and a favorable Foreign Ownership, Control, or Influence (FOCI) determination must be rendered by DOE before an access authorization will be granted, reinstated, continued, extended, or transferred for the contractor's applicant employment. Upon contract award, the Contractor is encouraged to use the DOE Accelerated Access Authorization Program (AAAP) to obtain an Interim "Q" access authorization. The request for AAAP shall include the certified results of the pre-employment investigative screening of the prospective employee and a local federal review prior to approved submission under AAAP.
- (f) The Contractor shall turn in badges for employees: (1) who are no longer working on the contract; (2) who no longer require access; (3) when their badge expires; or (4) when the contract expires or is terminated. Badges shall be returned to the individual handling security terminations. Notification of employment terminations supporting this contract will be made in writing to the CO and COR/CTM.
- (g) In addition to the possible requirement of holding an access authorization, individuals, if the work position is identified as requiring enrollment in the Human Reliability Program (HRP) and/or maintaining currency under certain program requirements (e.g., annual HRP training) must be willing to comply with all regulatory requirements to be granted access under the HRP federal rules and local procedures.

H.38 CONTRACTOR ASSURANCE SYSTEM (DEC 2009)

- (a) The Contractor shall develop a contractor assurance system that is executed by the Contractor's Board of Directors (or equivalent corporate oversight entity) and implemented throughout the Contractor's organization. This system provides reasonable assurance that the objectives of the Contractor management systems are being accomplished and that the systems and controls will be effective and efficient. The contractor assurance system, at a minimum, shall include the following key attributes:
 - (1) A comprehensive description of the assurance system with processes, key activities, and accountabilities clearly identified.

- (2) A method for verifying/ensuring effective assurance system processes. Third party audits, peer reviews, independent assessments, and external certification (such as VPP and ISO 9001 or ISO 14001) may be used.
- (3) Timely notification to the Contracting Officer of significant assurance system changes prior to the changes.
- (4) Rigorous, risk-based, credible self-assessments, and feedback and improvement activities, including utilization of nationally recognized experts, and other independent reviews to assess and improve the Contractor's work process and to carry out independent risk and vulnerability studies.
- (5) Identification and correction of negative performance/compliance trends before they become significant issues.
- (6) Integration of the assurance system with other management systems including Integrated Safety Management.
- (7) Metrics and targets to assess performance, including benchmarking of key functional areas with other DOE contractors, industry and research institutions. Assure development of metrics and targets that result in efficient and cost effective performance.
- (8) Continuous feedback and performance improvement.
- (9) An implementation plan (if needed) that considers and mitigates risks.
- (10) Timely and appropriate communication to the Contracting Officer, including electronic access, of assurance related information.

The initial contractor assurance system description shall be approved by the Contracting Officer.

- (b) The Government may revise its level and/or mix of oversight of this contract when the Contracting Officer determines that the assurance system is or is not operating effectively.