

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT		1. CONTRACT ID CODE	PAGE OF PAGES 1 2	
2. AMENDMENT/MODIFICATION NO. 570	3. EFFECTIVE DATE See Block 16C	4. REQUISITION/PURCHASE REQ. NO.	5. PROJECT NO. (If applicable)	
6. ISSUED BY Argonne Site Office U.S. Department of Energy Argonne Site Office 9800 South Cass Avenue Argonne IL 60439	CODE 06004	7. ADMINISTERED BY (If other than Item 6) Argonne Site Office U.S. Department of Energy Argonne Site Office 9800 South Cass Avenue Argonne IL 60439	CODE 06004	
8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, State and ZIP Code) UCHICAGO ARGONNE, LLC Attn: Dr. Donald Levy 5801 SOUTH ELLIS AVENUE, ADM. 503 CHICAGO IL 606375418		(x) 9A. AMENDMENT OF SOLICITATION NO.	9B. DATED (SEE ITEM 11)	
CODE 624449968 FACILITY CODE		* 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC02-06CH11357	10B. DATED (SEE ITEM 13) 07/31/2006	

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended, is not extended. Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods: (a) By completing Items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)
Not Applicable.

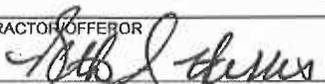
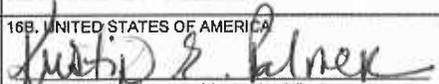
13. THIS ITEM ONLY APPLIES TO MODIFICATION OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

CHECK ONE	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
X	D. OTHER (Specify type of modification and authority) Mutual Agreement of the Parties.

E. IMPORTANT: Contractor is not, is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)
See Page 2.
Period of Performance: 10/01/2006 to 09/30/2015

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Beth A. Harris, Secretary	18A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Kristin E. Palmer
15B. CONTRACTOR/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED August 15, 2012
16B. UNITED STATES OF AMERICA  (Signature of Contracting Officer)	16C. DATE SIGNED 8/15/2012

14. DESCRIPTION OF AMENDMENT/MODIFICATION, continued.

This modification is issued to update the following contract Sections: 1) Part I, Section H – Special Contract Requirements and 3) Part III, Section J – List of Attachments, Appendix AI, as follows:

A. PART I, SECTION H, SPECIAL CONTRACT REQUIREMENTS, is revised as follows:

1. Section H, Special Contract Requirements, attached hereto and made a part hereof, is substituted for Section H, Special Contract Requirements previously incorporated into the contract by Modification No. 569.
2. In Section H, Special Contract Requirements, the following clause change is made:
 - (a) “Clause No. H.22, Workforce Transition, Contractor Compensation, Benefits and Pension”, is substituted for “Clause No H.22, Workforce Transition, Contractor Compensation, Benefits and Pension”, previously incorporated into the contract as awarded.

B. PART III, SECTION J, LIST OF ATTACHMENTS, is revised as follows:

1. Attachment No. J.1, Appendix A – Advance Understandings on Human Resources, attached hereto and made a part hereof, is substituted for Attachment No. J. 1, Appendix A – Advance Understandings on Human Resources, previously incorporated into the contract by Modification No. M037.

C. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

END OF MODIFICATION

SECTION H SPECIAL CONTRACT REQUIREMENTS

CLAUSE H.1 - LABORATORY FACILITIES

Laboratory Facilities. DOE agrees to furnish and make available to the Contractor, for its use in performing the work under this contract, the Laboratory facilities designated as follows:

- (a) The Government-owned or leased land, buildings, utilities, equipment and other facilities situated at the Argonne National Laboratory Site at Argonne, DuPage County, Illinois; and
- (b) Government-owned or leased facilities at such other locations as may be approved by DOE for use under this contract.

DOE reserves the right to make part of the above-mentioned land or facilities available to other Government agencies or other users on the basis that the responsibilities and undertakings of the Contractor will not be unreasonably interfered with. Before exercising its right to make any part of the land or facilities available to another agency or user, DOE will confer with the Contractor.

Subject to mutual agreement, other facilities may be used in the performance of the work under this contract.

CLAUSE H.2 - LONG-RANGE PLANNING, PROGRAM DEVELOPMENT AND BUDGETARY ADMINISTRATION

- (a) Basic considerations. Throughout the process of planning, and budget development and approval, the Parties recognize the desirability for close consultation, for advising each other of plans or developments on which subsequent action will be required, and for attempting to reach mutual understanding in advance of the time that action needs to be taken.
- (b) Institutional/Business planning. It is the intent of the Parties to develop an Institutional/Business Plan covering a five-year period, which will be updated at least annually. Development of the Institutional/Business Plan is a component of the strategic planning process by which the Parties, through mutual consultation, reach agreement on the general types and levels of activity which will be conducted at the Laboratory for the period covered by the plan. The Institutional/Business Plan approved by the DOE Site Office Manager provides guidance to the Contractor for long-range planning of Laboratory programs, site and facility development, and for budget preparation. It also serves as a baseline for placement of work at the Laboratory.

- (c) DOE approval. DOE approval of the program proposals and budget estimates will be reflected in work authorizations and financial plans developed and issued to the Contractor.

CLAUSE H.3 - WORK PROGRAMS

- (a) Work programs shall be developed by the Contractor and approved by DOE in accordance with applicable DOE directives, and shall constitute work to be performed under this Contract during the pertinent periods involved. Such work programs may include program and project performance objectives and milestones. The Contractor shall consult with DOE, as necessary, during the process of developing work programs. Subject to the other provisions of this contract, changes in the agreed work program, not constituting major changes, may be made by the Contractor when it appears to the Contractor, to be in the best interest of the scientific and technical objectives of the agreed work program to do so. It is understood that the nature of the research and development work under this Contract is of a specialized character not readily reducible to production schedules. In view of these circumstances, it is agreed that the research and development work is performed on a best effort basis.
- (b) Due to the critical character of the work from the standpoint of national significance, it is understood by the Parties hereto that very close collaboration will be required between the Contractor and DOE with respect to direction, emphasis, trends and adequacy of the total program.
- (c)
 - (1) The annual work program and budget are principal devices used by DOE in program development, integration, execution, and cost estimating. To make the work program and budget most effective in assuring comprehensive coverage of DOE missions, it is the responsibility of DOE to keep the operators of DOE's laboratories continually advised of DOE's overall program goals, scientific and technological problems, and its current long range objectives. In light of such information, the Contractor will propose possible new objectives and present preliminary work programs in the area of its competence which, from its point of view, will either strengthen the overall DOE program or provide additional support in areas which, in the Contractor's judgment, are being inadequately exploited, or initiate new areas of investigation which appear of potential importance.
 - (2) It is the responsibility of DOE to formulate overall program budgets, taking into consideration the proposals submitted by the Contractor, consistent with funds appropriated by the Congress and all its other program needs.
 - (3) The Contractor shall prepare a final work program and budget consistent with DOE's overall program budget. Upon DOE approval, it is the

Contractor's responsibility to conduct its work program within limits established by these approvals unless and until they are modified by DOE.

- (d) In accordance with the basic considerations stated in paragraph (c) above, the Contractor and DOE will utilize the Program Budget procedures on a Government fiscal year basis for the establishment of the Laboratory Program Budget. Procedures for the presentation of work programs and cost estimates shall be jointly developed. In order to meet the requirements of Government budgetary practice, the Parties agree:
- (1) As early as possible in each calendar year, DOE shall supply the Contractor with the dollar amounts for the Laboratory contained in the President's Budget, with Program assumptions and guidance which the Contractor will be expected to consider in the development of its program and budget, and with all changes to existing budget and accounting policies and procedures to be used in the current budget preparation.
 - (2) Prior to April 1 (or such other date as may be agreed upon) the Contractor shall submit to DOE for approval a comprehensive work program for the next two fiscal years, together with a description of the current work program, and the Contractor shall submit a budget estimate for the next two fiscal years, together with a revised budget estimate for the current fiscal year.
 - (3) As soon as possible after October 1 of each year, DOE shall issue Work Authorizations and an Approved Funding Program to the Contractor for the current fiscal year.
- (e) (1) DOE approved work programs, program performance expectations and milestones as appropriate, and budget estimates shall be reflected in Work Authorizations/Annual Program Letters/Activity Data Sheets/Program Baseline Summaries and Approved Funding Programs. These documents will be issued to the Contractor as soon as possible after funds become available. If, in preparing Work Authorizations/Annual Program Letters/Activity Data Sheets/Program Baseline Summaries and Approved Funding Programs, it is determined that changes are needed in the work program and budget estimates submitted by the Contractor, DOE and the Contractor shall agree upon the changes in the work before final issuance of these documents, provided, however, that nothing herein shall preclude DOE from directing a change in the work pursuant to the clauses of the Contract entitled "Changes" and "Work Authorization".
- (2) The Work Authorizations/Annual Program Letters, and with respect to any work that may be funded by the Office of Environmental Management, Program Baseline Summaries and Approved Funding Programs, specify the funds available for work under the Contract for the fiscal year and, in

addition, may establish limitations on costs to be incurred for individual portions of the work. The Contractor shall comply with such limitations and shall promptly notify the Contracting Officer, in writing, whenever it becomes apparent that there is likely to be an overrun with respect to any specific limitation in the Work Authorization/Annual Program Letters, and with respect to any work that may be funded by the Office of Environmental Management, Program Baseline Summaries, and Approved Funding Programs. Funds made available for work under the contract, and set forth in Approved Funding Programs or other funding documents, shall not be reduced except by written agreement of the Parties.

- (3) Additional programs and projects to be conducted at the Laboratory within the scope of the Contract may be established by agreement between the DOE and the Contractor. However, nothing herein shall preclude DOE from directing a change in or assignment of work pursuant to the "Changes" or the "Work Authorization" clauses of the contract.
- (f) A Contract modification shall be issued to the Contractor on or before September 30 of each year (or such other date as may be agreed upon) to provide additional funds, and further Contract modifications may be issued or entered into from time to time to provide appropriate modifications in the total amount of funds made available under the Contract. DOE agrees to use its best efforts to provide stable funding in support of the Contract work and it is DOE's intention that there shall be so provided at all times sufficient funds to support the work program at the level authorized by DOE.
- (g) During the course of the work, DOE shall review the work program and its costs based upon information submitted by the Contractor and may, after consultation with the Contractor, revise the Work Authorizations and Approved Funding Programs established by DOE under paragraph (e) above. The Contractor shall make any necessary revisions to the documents cited in this clause consistent with DOE direction.
- (h) It is the intent of the Contractor and DOE to agree from time to time upon long term work programs covering certain portions of the work to be performed under this contract. However, nothing herein shall preclude DOE from directing a change in or assignment of work pursuant to the "Changes" or the "Work Authorization" clauses of the contract.
- (i) The Contractor shall maintain current cost information adequate to reflect the cost of performing the work under this Contract at all times while the work is in progress, and shall prepare and furnish to the Government such written estimates of cost and information in support thereof as the Contracting Officer may request.

CLAUSE H.4 - DEFENSE AND INDEMNIFICATION OF EMPLOYEES

- (a) The Parties recognize that, under applicable State law, the Contractor could be required to defend and indemnify its officers and employees from and against civil actions and other claims which arise out of the performance of work under this Contract. Except for defense costs made unallowable by Section I clause entitled Payments and Advances, or the Major Fraud Act (41 U.S.C. §256(k)), the costs and expenses, including judgments, resulting from the defense and indemnification of employees from and against such civil actions and claims shall be allowable costs under this contract if incurred pursuant to the terms of Section I clause entitled "Insurance—Litigation and Claims".
- (b) Costs and expenses, including judgments, resulting from the defense and indemnification of employees from civil fraud actions filed in federal court by the Government will be unallowable where the employee pleads nolo contendere or the action results in a judgment against the defendant.
- (c) Where in accordance with applicable State law, the Contractor determines it must defend an employee in a criminal action, DOE will consider in good faith, on a case-by-case basis, whether the Contractor has such an obligation. If DOE concurs, the costs and expenses, including judgments, resulting from the defense and indemnification of employees shall be allowable.
- (d) The Contractor shall immediately furnish the Contracting Officer written notice of any such claim or civil action filed against any employee of the Contractor arising out of the work under this contract together with copies of all pleadings filed. The Contractor shall furnish to the Contracting Officer a written determination by the Contractor's counsel that the defense or indemnity of the employee is required by the provisions of applicable State law, that the employee was acting within the course and scope of employment at the time of the acts or omissions which gave rise to the claim or civil action, and that any exclusions set forth under applicable State law for fraud, corruption, malice, willful misconduct, or lack of good faith on the part of the employee does not apply. A copy of any letter asserting a reservation of rights under applicable State law with respect to the defense or indemnification of such employee shall also be provided to the Contracting Officer. The costs associated with the settlement of any such claim or civil action shall not be treated as an allowable cost unless approved in writing by the Contracting Officer.

CLAUSE H.5 - ADVANCE UNDERSTANDINGS REGARDING ADDITIONAL ITEMS OF ALLOWABLE AND UNALLOWABLE COSTS AND OTHER MATTERS

Allowable costs under this Contract shall be determined according to the requirements of DEAR 970.5232-2, Payments and Advances. For purposes of effective Contract implementation, certain items of cost are being specifically identified below as allowable and/or unallowable under this Contract to the extent indicated:

I. ITEMS OF ALLOWABLE COSTS:

- (a) Cost for the defense and indemnification of employees in accordance with the provisions of Clause H.4.
- (b) Rentals and leases of land, buildings, and equipment owned by third parties, allowances in lieu of rental, charges associated therewith and costs of alteration, remodeling and restorations where such items are used in the performance of the contract, except that such rentals and leases directly chargeable to the contract shall be subject to approval by the Contracting Officer as set forth in Part III, Attachment J.7, Appendix G.
- (c) Notwithstanding the provisions of FAR cost principle 31.205-44 (e), stipends and payments made to reimburse travel or other expenses of researchers and students who are not employed under this contract but are participating in research, educational or training activities under this contract to the extent such costs are incurred in connection with fellowship, international agreements, or other research, educational or training programs approved by the Contracting Officer.
- (d) Notwithstanding the provisions of FAR cost principle 31.205-44 (e), payments to educational institutions for tuition and fees, or institutional allowances, in connection with fellowship or other research, educational or training programs for researchers and students who are not employed under this contract.
- (e) Costs incurred or expenditures made by the Contractor, as directed, approved or ratified by the Contracting Officer and not unallowable under any other provisions of this contract.
- (f) Net cost of operating site lodging facilities attributable to performance of the contract.

II. ITEMS OF UNALLOWABLE COSTS:

- (a) Premium Pay for wearing radiation-measuring devices for Laboratory and all-tier cost-type subcontract employees.
- (b) Home office expenses, whether direct or indirect, relating to activities of the Contractor, except as otherwise specifically agreed to in writing by the Contracting Officer.
- (c) Costs associated with ARTS at Argonne, the Argonne Holiday Party, Argonne picnics, Breakfast with Santa, tickets purchased for athletic or other special events or similar events unless specifically authorized by the Contracting Officer and not otherwise unallowable under the Contract.

III. OTHER MATTERS:

- (a) With respect to paragraph (e) of Clause I.13, Material Requirements, the Contracting Officer hereby authorizes the Contractor to purchase for projects not involving construction or maintenance used, reconditioned, or remanufactured supplies or unused former Government surplus property, when the Contractor determines that it is in the best interest of the Government.
- (b) With respect to paragraph (h)(3)(ii) of Clause I.135, Contractor Purchasing System, the term "site" means physically separate buildings, facilities, or structures. Therefore, the prohibition against the Laboratory awarding concurrent cost reimbursement and fixed price construction or architect-engineering subcontracts to the same firm for work at the same site is applicable to work within the same building, structure, or facility. However, in cases where a concurrent cost reimbursement and fixed price construction or architect-engineering subcontract is awarded to the same firm for work at different sites, an audit of subcontractor cost incurred must be performed.

CLAUSE H.6 – FACILITIES CAPITAL COST OF MONEY

The request for proposal for this contract did not require a cost proposal in which facilities capital cost of money would apply. Therefore, the Clause I.18, FAR 52.215-17, Waiver of Facilities Capital Cost of Money is included in the contract. However, if during the performance of the contract the Contractor elects to claim facilities capital cost of money as an allowable cost, the Contractor shall submit, for approval of the Contracting Officer, a proposal for each specific project, including Form CASB-CMF which shows the calculation of the proposed amount (see FAR 31.205-10).

CLAUSE H.7 - ADMINISTRATION OF SUBCONTRACTS

- (a) The administration of all subcontracts entered into and/or managed by the Contractor, including responsibility for payment hereunder, shall remain with the Contractor unless assigned at the direction of DOE.
- (b) The 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. The Department will work with the Contractor to identify the areas of work that can be performed by small businesses in order to maximize direct federal contracts with

small businesses. The Contractor agrees to facilitate these actions. This facilitation will include identifying direct contracting opportunities valued at \$5 million or above for small businesses for work presently performed under subcontracts, as well as work performed by Contractor employees. The Contractor shall notify the DOE one year in advance of the expiration of any of its subcontracts valued at \$5 million or above, or if applicable, one year prior to the exercise of an option and/or the option notification requirement, if any, contained in the subcontracts. The DOE will review this information and the requirements of the Contractor to determine the appropriateness for small business opportunities. This review may result in the DOE electing to enter in contracts directly with small businesses for these areas of work. The Contracting Officer will give notice to the Contractor not less than 120 calendar days prior to the date for exercising the option and/or the expiration of the subcontract and/or prior to entering into contract for work being performed by Contractor employees. Following award of these direct federal contracts, DOE may assign administration of these contracts to the Contractor. The Contractor agrees to accept assignments from the DOE for the administration of these contracts. The parameters of the Contractor's responsibilities for the small business contracts and/or changes, if any, to this contract will be incorporated via a modification to the contract. The Contractor will accept management and administration responsibilities, if so determined.

- (d) To the extent that DOE removes (de-scopes) work from this contract, any such removed or withdrawn work shall be treated as a change in accordance with the clause of this contract entitled, "Changes". A "material change" for the purpose of this clause is defined as cumulative changes during a fiscal year that result in a plus or minus 10% change to the Laboratory's budget. To the extent that DOE assigns the administration of a contract to the Contractor, or removes (de-scopes) work, the Parties reserve the right to negotiate an equitable adjustment in the Contractor's annual available performance fee. The negotiation of fee will be in accordance with the contract clause entitled, "Total Available Base Fee Amount and Performance Fee Award". The Parties will also negotiate appropriate adjustments to the Contractor's Subcontracting Plan or any other applicable contract terms and conditions impacted by such withdrawal or addition of work scope to recognize the changes to the Contractor's subcontracting base and goals.
- (e) DOE has identified Physical Site Security work for either direct federal contract with small business or assignment of the follow-on subcontract to DOE. These services are currently provided to Argonne National Laboratory under a subcontract. When the current subcontract expires the work may either be awarded by direct contract by DOE or through a subcontract issued by the Contractor and then assigned to DOE. For this work and for any other work which is removed by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required. In addition, to the extent that the Scope of Work has to be modified to

reflect removal of work, a modification will be issued when the federal contract is awarded or at the time of assignment of the Subcontract to DOE.

CLAUSE H.8 - CARE OF LABORATORY ANIMALS

- (a) Before undertaking performance of any contract involving the use of laboratory animals, the Contractor shall register with the Secretary of Agriculture of the United States in accordance with Section 6, Public Law 89-544, Laboratory Animal Welfare Act, August 24, 1966, as amended. The Contractor shall furnish evidence of such registration to the Contracting Officer.
- (b) The Contractor shall acquire animals used in research and development programs from a dealer licensed by the Secretary of Agriculture, or from exempted sources in accordance with the Public Laws enumerated in paragraph (a) above.
- (c) In the care of any animals used or intended for use in the performance of this contract, the Contractor shall comply with USDA regulations governing animal care and usage, as well as all other relevant local, State, and Federal regulations concerning animal care and usage. In addition, the Contractor will ensure that research will be conducted in a facility that either: (i) has a current National Institutes of Health (NIH) assurance number for animal care and usage, or (ii) is currently accredited for animal care and usage by an appropriate organization such as the Association for Assessment and Accreditation of Laboratory Animal Care (AAALAC) International, or (iii) has a DOE Assurance Plan Number.

CLAUSE H.9 - PRIVACY ACT RECORDS

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a (Public Law 93-579) and implementing DOE Regulations (10 CFR 1008), the Contractor shall maintain the following "Systems of Records" on individuals in order to accomplish the United States Department of Energy functions:

- Personnel Medical Records (DOE-33) (excepting Contractor employees);
- Personnel Radiation Exposure Records (DOE-35);
- Employee and Visitor Access Control Records (DOE-51);
- Access Control Records of International Visits, Assignments, and
- Employment at DOE Facilities and Contractor Sites (DOE-52)

The parenthetical Department of Energy number designations for each system of records refers to the official "System of Records" number published by the United States Department of Energy in the Federal Register pursuant to the Privacy Act.

If DOE requires the Contractor to design, develop, or maintain additional systems of Government-owned records on individuals to accomplish an agency function in accordance with the Privacy Act of 1974 and 10 CFR 1008, the Contracting Officer, or designee, shall so notify the Contractor, in writing, and such Privacy Act system shall be deemed added to the above list whether incorporated by formal contract modification or not. The Parties shall mutually agree to a schedule for implementation of the Privacy Act with respect to each such system.

CLAUSE H.10 - ADDITIONAL DEFINITIONS

- (a) "CH" means the DOE Office of Science, Chicago Office.
- (b) "Contractor" means the Offeror as specified in Block 15A of Standard Form 33 for Contract No. DE-AC02-06CH11357.
- (c) The term "DOE" means the Department of Energy, "FERC" means the Federal Energy Regulatory Commission and "NNSA" means the National Nuclear Security Administration.
- (d) The term "DOE Directive" means DOE Policies, Orders, Notices, Manuals, Regulations, Technical Standards and related documents, and Guides, including for purposes of this contract those portions of DOE's Accounting and Procedures Handbook applicable to integrated Contractors, issued by DOE. The term does not include temporary written instructions by the Contracting Officer for the purpose of addressing short-term or urgent DOE concerns relating to health, safety, or the environment.
- (e) "Head of Agency" means: (i) The Secretary; (ii) Deputy Secretary; (iii) Under Secretaries of the Department of Energy and (iv) The Chairman, Federal Energy Regulatory Commission.
- (f) "Laboratory" means the Argonne National Laboratory (Argonne) composed of Government-owned buildings and facilities together with the necessary utilities, now existing or hereafter to be acquired, constructed and equipped, most of which are or will be situated on the Government-owned land (hereinafter referred to as the "Laboratory Site") at Argonne, DuPage County, Illinois.
- (g) The term "someone acting as the Laboratory Director" means the person appointed as Laboratory Director; Deputy Laboratory Director(s) acting in the absence of the Laboratory Director; or a person specified, in writing, to have authority to act in the absence of the Laboratory Director and Deputy Laboratory Director(s).
- (h) With respect to Clauses H.16, I.118, and I.136, the term "non-profit organization" means –

- (1) a university or other institution of higher education,
 - (2) an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 as amended and exempt from taxation under section 501(a) and the Internal Revenue Code,
 - (3) any nonprofit scientific or educational organization qualified as a nonprofit by the laws of the State of its organization or incorporation, or
 - (4) a combination of qualifying entities organized for a nonprofit purpose (e.g., partnership, joint venture or limited liability company) each member of which meets the requirements of (1), (2), or (3) above.
- (i) The term "Senior Procurement Executive" means, for DOE:
- Department of Energy – Director, Office of Procurement and Assistance Management, DOE;
- National Nuclear Security Administration – Administrator for Nuclear Security, NNSA; and
- Federal Energy Regulatory Commission – Chairman, FERC.

CLAUSE H.11 - SERVICE CONTRACT ACT OF 1965 (41 U.S.C. 351)

The Service Contract Act of 1965 is not applicable to this contract. However, in accordance with Clause I.135 – DEAR 970.5244-1 – CONTRACTOR PURCHASING SYSTEM (AUG 2009)(DEVIATION)(AUG 2011), 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 Contracting Officer 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 Contracting Officer or his designee to obtain a wage determination.

CLAUSE H.12 - WALSH-HEALY PUBLIC CONTRACTS ACT

Except as otherwise may be approved, in writing, by the Contracting Officer, the Contractor agrees to insert the following provision in noncommercial Purchase Orders and subcontracts under this contract. "If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed \$15,000.00 and is otherwise subject to the Walsh-Healy Public Contracts Act, as amended (41 U.S.C. 35), there are hereby incorporated by reference all

representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect."

CLAUSE H.13 - PROTECTION OF HUMAN SUBJECTS

Before undertaking the performance of any research involving the use of human subjects, the provisions of 10 CFR 745, Protection of Human Subjects, must be complied with. This requirement applies to research undertaken with DOE support, work for others, and collaborations with other institutions.

CLAUSE H.14 – BOARD OF GOVERNOR'S EXPENSES

The allowable costs reimbursed under Clause I.124, Payments and Advances, of this contract shall include costs incurred by the Board of Governors and shall be determined as follows:

Commencing October 1, 2006 the Contractor shall be provided funds each fiscal year to reimburse the allowable costs (which may include such types as staff costs, honoraria and meeting expenses) resulting from the activities of the Board of Governors. At least 60 days before the beginning of the fiscal year, the Contractor shall submit to the Contracting Officer a detailed budget for the allowable costs of such activities for the ensuing year. The amount each year shall be a provisional amount agreed upon by the Parties after review of the annual budget. During each year the Parties may agree upon changes regarding the approved annual budget. Any costs incurred by the Contractor for the Board of Governors in excess of the mutually agreed to provisional amount shall be unallowable unless the Contracting Officer approves such increased amount, in writing. The Contractor shall submit a detailed report of all expenditures as soon as possible but no later than 120 days following the end of each fiscal year. Any amounts received provisionally for the completed year and not so spent shall be refunded to the DOE, or, if the Parties so agree, carried forward as an offset against the provisional allowable costs for the succeeding fiscal year. A certification signed by an individual of the UChicago Argonne LLC, at a level no lower than a Vice President or Chief Financial Officer, shall be provided stating that the costs incurred contain no unallowable costs. Appropriate documentation, including a detailed agenda, list of attendees, topics of discussion, and a Statement indicating that meals provided to the Board of Governors are incidental to and an integral part of the conference or meeting, shall be available to DOE and provided in the annual detailed report of expenditures. The provisional sum provided for the Board of Governors' reimbursement for allowable costs shall be paid in advance on a prorated monthly basis at the rate of 85%.

CLAUSE H.15 - STANDARDS OF CONTRACTOR PERFORMANCE EVALUATION

- (a) Use of objective standards of performance, self-assessment and performance evaluation:
- (1) The Parties agree that the Contractor will utilize a comprehensive performance-based management approach for overall Laboratory management. The performance-based management approach will include the use of performance goals, objectives, measures, and targets, agreed to in advance of each performance evaluation period, as standards against which the Contractor's overall performance of the scientific and technical mission obligations under this Contract will be assessed. The performance criteria will be limited in number and focus on results to drive improved performance and increased effective and efficient management of the Laboratory.
 - (2) The Parties agree to utilize the process described within Part III, Section J, Appendix B - "Performance Evaluation and Measurement Plan" (PEMP) to evaluate the performance of the Laboratory. The Parties further agree that the evaluation process described in Appendix B will be reviewed annually and modified, if necessary, by agreement of the Parties. If agreement of the Parties cannot be reached, the Contracting Officer has the unilateral right to establish the evaluation process.
 - (3) The Parties agree that the Contractor will conduct an ongoing self-assessment process as the principal means of determining its compliance with the Contract Statement of Work and performance indicators identified within Part III, Section J, Appendix B. To assist the DOE in accomplishing the appropriate level of oversight, the Contractor shall work in partnership and cooperation with DOE and other external organization, as appropriate, in the self-assessment process. This work includes, but is not limited to, the development and execution of self-assessments and the utilization of the results for continuous improvement.
 - (4) The Contractor shall provide periodic updates, as requested by the DOE, on the performance against the Performance Evaluation Management Plan in Appendix B. The Contractor shall provide a formal status briefing at mid-year and year-end. Specific due dates and formats for the above-mentioned briefings shall be agreed to by the Laboratory Director and the DOE Argonne Site Office Manager.
 - (5) DOE, as a part of its responsibility for oversight, evaluation, and information exchange, shall provide an annual programmatic appraisal and other appraisals, and reviews of the Contractor's performance of authorized work in accordance with the terms and conditions of this Contract. The Office of Science, through the DOE Argonne Site Office Manager, has the lead responsibility for oversight of the programs and activities conducted by the Contractor.

- (6) The Contracting Officer shall annually provide a written assessment of the Laboratory's performance to the Contractor, which shall be based upon the process described in Appendix B. The Parties acknowledge that the performance levels achieved against the specific performance goals, objectives, measures, and targets shall be the primary, but not sole, criteria for determining the Contractor's final performance evaluation and rating. The Contractor's self-assessment results, to include results of any third party reviews which may have been conducted during the evaluation period, will be considered at all levels to assess and evaluate the Contractor's performance. The Contracting Officer may also consider other relevant information not specifically measured by the objectives and measures established within Appendix B that is deemed to have an impact (either positive or negative) on the Contractor's performance. Other relevant information that may be used by the Contracting Officer may include, but is not limited to, information gained from peer reviews, operational awareness, outside agency reviews (i.e., OIG, GAO, DCAA, etc.) conducted throughout the year, annual reviews (if needed), and DOE "for cause" reviews. Contractor success in meeting or exceeding performance expectations in a particular management or operations functional area may be rewarded with less frequent – or no – review of the functional area. Conversely, marginal performance or "for cause" situations may result in more frequent reviews.
- (b) Standards of performance measure review:
- (1) The Parties agree to review the PEMP elements (goals, objectives, measures, and targets, and expected levels of performance) contained in Appendix B annually and to modify them upon the agreement of the Parties; provided, however, that if the Parties cannot reach agreement on all the goals, objectives, measures, and targets, for the next period, the Contracting Officer shall have the unilateral right to establish reasonable new goals, objectives, measures, and targets and/or to modify and/or delete existing goals, objectives, measures, and targets. It is expected that the goals, objectives, measures, and targets will be modified by the Contractor and the DOE as new areas of emphasis or priorities emerge which the Parties may agree warrant recognition in the performance-based integrated management approach.
 - (2) Failure to include a goal, objective, measure, or target in the contract Appendix B does not eliminate the Contractor's obligation to comply with all applicable terms and conditions as set forth elsewhere within the contract.
 - (3) In the event the Contracting Officer decides to exercise the rights set forth in paragraphs (a)(6) or (b)(1) above, he/she will notify the Contractor, in writing, of the intended decision ten days prior to issuance.

CLAUSE H.16 - CAP ON LIABILITY

- (a) The Parties have agreed that the Contractor's liability, for certain obligations it has assumed under this contract, shall be limited as set forth in paragraph (b) below. These limitations or caps shall only apply to obligations the Contractor has assumed pursuant to the following clauses:
- (1) The clause titled "Property", paragraph (f)(1)(i)(C);
 - (2) The clause titled "Insurance--Litigation and Claims", (h), with respect to prudent business judgment only; and
 - (3) The clause titled "Insurance--Litigation and Claims", (j)(2), except for punitive damages resulting from the willful misconduct or lack of good faith on the part of the Contractor's managerial personnel as defined in the clause titled, Property.
- (b) The Contractor shall be liable each fiscal year for an amount not-to-exceed 1.25 times the maximum performance fee available for that fiscal year. The annual cap which will apply shall be based on the fiscal year in which the Contractor's act or failure to act was the proximate cause of the liability assumed by the Contractor. In the event the Contractor's act or failure to act overlaps more than one fiscal year, the limitation will be the annual limitation for the last fiscal year in which the Contractor's act or failure to act occurred. If the Contractor's cumulative obligations for a fiscal year equal the amount of the annual limitation of liability, the Contractor shall have no further responsibility for the costs of the liabilities it has assumed for that fiscal year pursuant to (a)(1) through (3) above.

CLAUSE H.17 - INTELLECTUAL AND SCIENTIFIC FREEDOM

- (a) The Parties recognize the importance of fostering an atmosphere at the Laboratory conducive to scientific inquiry and the development of new knowledge and creative and innovative ideas related to important national interests.
- (b) The Parties further recognize that the free exchange of ideas among scientists and engineers at the Laboratory and colleagues at universities, colleges, and other laboratories or scientific facilities is vital to the success of the scientific, engineering, and technical work performed by Laboratory personnel.
- (c) In order to further the goals of the Laboratory and the national interest, it is agreed by the Parties that the scientific and engineering personnel at the Laboratory shall be accorded the rights of publication or other dissemination of research, and participation in open debate and in scientific, educational, or professional meetings or conferences, subject to the limitations included in technology transfer agreements and such other limitations as may be required by

the terms of this Contract, including, but not limited to the clause of this Contract entitled, "Security." Nothing in this clause is intended to alter the obligations of the Parties to protect classified or unclassified controlled nuclear information as provided by law.

- (d) Nothing in the Section I clause entitled "Public Affairs" or the Section H clause respecting "Lobbying Restriction" are intended to limit the rights of the Contractor or its employees to publicize and to accurately state the results of its scientific research.

CLAUSE H.18 - NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS - SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

CLAUSE H.19 - 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 I, List B" until such time as the Contracting Officer 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 the Department of Energy.
- (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 Laboratory Director 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 Contracting Officer a signed proposal describing the nature and scope of the alternative procedure, standard, system of oversight, or assessment mechanism (alternative), the anticipated benefits, including any cost benefits, to be realized by 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 Laboratory Director 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 Contracting Officer any additional information that will aid in evaluating the Contractor's proposal.

- (e) Action of the Contracting Officer. The Contracting Officer 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)(2) above, the Contractor shall provide the Contracting Officer with an assurance statement, signed by the Laboratory Director, 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 Contracting Officer may notify the Contractor that he or she intends to unilaterally add CRDs not then listed in Appendix I 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 Contracting Officer under paragraph (e), the Contracting Officer may unilaterally add the CRD or modification to Appendix I. The Contractor and the Contracting Officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, resulting from the addition of the CRD or modification.
- (h) Deficiency and Remedial Action. If, during performance of this contract, the Contracting Officer determines that an alternative procedure, standard, system of oversight, or assessment mechanism adopted through the operation of this clause is not satisfactory, the Contracting Officer 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 Contracting Officer's approval. If the Contracting Officer is not satisfied with the corrective action taken, the Contracting Officer may direct corrective action to remedy the deficiency, including, if appropriate, the reinstatement of the CRD.

CLAUSE H.20 - EXTERNAL REGULATION

The Parties commit to full cooperation with regard to complying with any statutory mandate regarding external regulation of Laboratory facilities, whether by the Nuclear Regulatory Commission, the Occupational Safety and Health Administration, the Environmental Protection Agency, and/or State and local entities with regulatory oversight authority, and including but not limited to the conduct of pilot programs simulating external regulation, and the application for materials, facilities, or other licenses by or on behalf of the DOE.

CLAUSE H.21 – SEPARATE CORPORATE ENTITY AND PERFORMANCE GUARANTEE

- (a) The work performed under this Contract by the Contractor shall be conducted by a separate corporate entity from its parent organization(s). The separate corporate entity must be set up solely to perform this Contract and shall be totally responsible for all Contract activities.
- (b) The Contractor's parent organization(s) or all member organizations, shall guarantee the Contractor's performance as evidenced by the Performance Guarantee(s) incorporated in the contract in Section J, Appendix L. 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 contract.
- (c) In the event any of the signatories to the performance guarantee enters into proceedings related to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Contracting Officer.

CLAUSE H.21A – RESPONSIBLE CORPORATE OFFICIAL

The Government may contact as necessary, the Chairman of the Parent Organization(s)' Board of Directors, Trustees or any other Management Board regarding Contractor performance issues.

For each such official, the Contractor shall provide the following information:

Name: Andrew M. Alper
Position: Chairman of the Board of Trustees
Organization: The University of Chicago
Address: 5801 South Ellis Ave, Adm. 501, Chicago, IL 60637
Phone Number: 773-702-8808

Should a responsible corporate official change during the period of the contract, the Contractor shall promptly notify the Government, in writing, of the change in the individual(s) to contact.

CLAUSE H.22 - WORKFORCE TRANSITION, CONTRACTOR COMPENSATION,
BENEFITS AND PENSION

- (a) (1) Subject to the availability of funds, the Contractor shall offer employment to all Incumbent employees who, as of the date of contract award, are in good standing and have "Regular" appointments, as defined in subparagraph (2) below, except as set forth in (i) and (ii), below.
- (i) It is the Contractor's prerogative to establish its own management structure, therefore, the Contractor is not required to offer employment to those "Regular" employees permanently assigned to the positions listed under Section L as Appendix 7, List A. The Contractor may offer employment to said employees, in either their current positions or other positions, at the Contractor's sole discretion.
- (ii) For those positions listed under Section L, Appendix 7, Lists A and B, any changes in job positions or classifications shall be accompanied by a commensurate alteration in compensation.

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.

- (2) Regular appointments, for purposes of this clause, are of 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. Employees are eligible for benefits, subject to the terms, conditions, and limitations of each benefit program. Employees scheduled to work fewer than 20 hours per week receive only those benefits required by law.
- (b) Employee Pay and Benefits:

- (1) Incumbent employees are the employees who are on the regular payroll(s) of the Incumbent Contractor(s) at the time that the responsibility for contract performance is assumed by the successor contractor.
- (2) Non-incumbent employees are new hires, i.e., employees hired by the Contractor after the Contractor assumes responsibility for contract performance
- (3) Except as provided in (a)(1) above, the Contractor shall provide equivalent pay and comparable benefits to incumbent employees for at least the first year of the contract. Thereafter, benefits shall be altered, as necessary, to achieve conformance with DOE policy. Incumbent employees shall remain in their existing pension plans pursuant to pension plan eligibility requirements and applicable law. 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. Comparability of the total benefit package shall be determined by the Contracting Officer in his/her sole discretion.
- (4) The Contractor shall become plan sponsor of pension and other post-retirement benefit (PRB) plans, as applicable, for those individuals who retired from employment at Argonne with the predecessor contractor prior to contract award. The Contractor shall provide benefits comparable to those provided by the predecessor contractor for at least the first year of the contract. Thereafter, benefits shall be altered, as necessary, to achieve conformance with DOE policy. Unless required by Federal or State law, advance funding of PRBs, other than pensions, is not allowable.
- (5) All new (non-incumbent) employees shall receive an overall benefit package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees. Contractors shall develop and implement welfare benefit programs that meet the test of allowability established by FAR 31.205-6 as supplemented by DEAR 970.3102-5-6.
- (6) Cost reimbursement for pension and other benefit programs sponsored by the Contractor 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 benefit plan or makes changes to existing benefit plans until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changes benefit plans.
- (7) The Contractor shall submit within 30 days of Contract award, 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.

- (8) 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," as applied to the DOE-approved standards in Section J, Appendix A. The Contractor's compensation system and methods shall be in accordance with FAR 31.205-6 and DEAR 970.3102-05-6, fully documented, consistently applied, and acceptable to DOE.

Until DOE has certified the Contractor's compensation system, 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 Compensation System.
- (ii) Any proposed major compensation program design changes prior to implementation.
- (iii) Annual Compensation Increase Plan (CIP).
- (iv) Individual compensation actions for the top contractor official (e.g., laboratory director/plant manager or equivalent and key personnel not included in the CIP). For those key personnel included in the CIP, DOE will approve salaries upon the initial contract award and when key personnel are replaced during the life of the contract. DOE will have access to all individual salary reimbursements. This access is provided for transparency; DOE will not approve individual salary actions (except as previously indicated).
- (v) Any proposed establishment of an incentive compensation plan (variable pay plan/pay-at-risk).

The Contracting Officer's approval of individual compensation actions will be required only for the top contractor official (e.g., laboratory director/plant manager or equivalent) and key personnel as indicated in (b)(8)(iv) above. The base salary reimbursement level for the top contractor official establishes the maximum allowable salary reimbursement under the

contract. Unusual circumstances may require a deviation for an individual on a case-by-case basis. Any such deviations must be approved by the Contracting Officer.

- (9) Severance pay benefits are 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.

Service Credit for purposes of determining severance pay does not include any period of prior service at a DOE facility for which severance pay has been previously paid.

- (10) The Contractor shall provide the Contracting Officer with the following reports with respect to salary and benefits:
- (i) 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.
 - (ii) At the time of contract award and upon any change thereafter, a list of the top five most highly compensated executives and their salaries.
 - (iii) Annual Report of Contractor Expenditures for Employee Supplemental Compensation through the Department Workforce Information System (WFIS), compensation and benefits module.
 - (iv) A Self-Assessment of the total compensation program to include an evaluation of total benefits using the relative Benefit Value measure every two years, and an annual Per Capita Cost Comparison analysis.
- (11) DOE will conduct periodic appraisals of Contractor performance with respect to compensation system implementation. Such appraisals when approved by the Contracting Officer will be conducted by either DOE validation of Contractor self-assessments of compensation system performance, or third party expert review.

(c) Pension and Other Benefit Programs: Unless stated otherwise, or as directed by the Contracting Officer, within 30 days of award or extension, and prior to implementation of any benefit change, the Contractor shall submit (1) and (2) below:

- (1) 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 pensions, the Contractor shall provide a separate cost and plan design data comparison for the post-retirement benefits other than pensions using external benchmarks for nationally recognized and Contracting Officer approved survey sources and,
- (2) An Employee Benefits Cost Comparison Analysis, annually, 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 as supplemented by DEAR 970.3102-05-6.

- (3) When net benefit value and/or per capita cost of the total benefits package exceed the comparator group by more than 5 percent, submit a corrective action plan, when requested by the Contracting Officer.
 - (4) 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.
 - (5) Implement corrective action plans determined to be reimbursable by the Contracting Officer to align employee benefit programs with the net benefit value and per capita cost range within two years.
 - (6) Submit the Report on 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 15 of the current calendar year.
- (d) 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 Argonne.

- (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 working for Argonne and shall stand alone as a separate pension plan distinct from a Contractor's corporate or other pension plan.
- (3) 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 within nine months of the last day of the current pension plan year.
 - (i) Copies of IRS Forms 5500 with schedules;
 - (ii) Copies of all forms in the 5300 series that document the establishment, amendment, termination, spin-off, or merger of a plan.
- (4) 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, as supplemented by DEAR 970.3102-05-6.
 - (i) 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 must be provided; and,
 - (ii) 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.
- (5) At contract expiration or termination as a part of the transition to another entity awarded the management and operating contract, the Contractor shall transfer sponsorship of the site-specific pension plan(s) covering

employees at Argonne, as directed by DOE.

- (6) 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.
 - (7) Post-Contract Responsibilities for Benefits Other Than Pensions if this contract expires or terminates with a follow-on contract. The Contractor shall transfer sponsorship of the post-retirement benefit plan(s) (retiree medical and life insurance) covering Argonne employees, as directed by DOE.
 - (8) 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 of the contract Section I clause, FAR 52.249-6, "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.
- (e) Labor Relations:
- (1) 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.

- (2) 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. 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.

CLAUSE H.23 - CONTRACTOR ACCEPTANCE OF NOTICES OF VIOLATIONS OR ALLEGED VIOLATIONS, FINES, AND PENALTIES

- (a) The Contractor shall accept, in its own name, service 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) The Contractor shall notify DOE promptly when it receives service from the regulators of NOVs/NOAVs and fines and penalties.

CLAUSE H.24 - ALLOCATION OF RESPONSIBILITIES FOR CONTRACTOR ENVIRONMENTAL COMPLIANCE ACTIVITIES

- (a) The Parties commit to full cooperation with regard to acquiring any necessary permits or licenses required by environmental, safety and health (ES&H) laws, codes, ordinances, and regulations of the United States, states or territories, municipalities or other political subdivisions, and which are applicable to the performance of work under this contract. It is recognized that certain ES&H permits will be obtained jointly as co-permittees, and other permits will be obtained by either party as the sole permittee. The Contractor, unless otherwise directed by the Contracting Officer, shall procure all necessary non-ES&H permits or licenses.
- (b) 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, compliance agreements, permits, and licenses.

- (c) (i) Liability and responsibility for civil fines or penalties arising from or related to violations of environmental requirements shall be borne by the party causing 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. The allowability of the costs associated with fines and penalties assessed against the Contractor shall be subject to the other provisions of this contract.
- (ii) In the event that the Contractor is deemed to be the primary party causing the violation, and the costs of fines and penalties proposed by the regulatory agency to be assessed against the Government (or the Government and Contractor jointly) are determined by the Government to be presumptively unallowable if allocated against the Contractor, then the Contractor shall be afforded the opportunity to participate in negotiations to settle or mitigate the penalties with the regulatory authority. If the Contractor is the sole party of the enforcement action, the Contractor shall take the lead role in the negotiations and the Government shall participate and have final authority to approve or reject any settlement involving costs charged to the contract.
- (d) DOE agrees that if bonds, insurance, or administrative fees are required as a condition for permits obtained by the Contractor under this contract, and the Contractor has been directed by the Contracting Officer to obtain such permits after the Contractor has notified the Contracting Officer of the costs of complying with such conditions, such costs shall be allowable. In the event such costs are determined by DOE to be excessive or unreasonable, DOE shall provide the regulatory agency with the acceptable form of financial responsibility. Under no circumstances shall the Contractor be required to provide any corporate resources or corporate guarantees to satisfy such regulatory requirements.

CLAUSE H.25 - WORKERS' COMPENSATION

- (a) The Contractor will 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 Contracting Officer 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 Contracting Officer.
- (c) The Contractor shall submit to the Contracting Officer 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 Contracting Officer. The Contractor's self-evaluation shall discuss:
 - (1) periodic audits of claims servicing units; and,
 - (2) the reasonableness of 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 Contracting Officer with a copy of 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 will obtain approval from the Contracting Officer before making any significant change to its workers compensation coverage and will furnish reports as may be required from time to time by the Contracting Officer.

CLAUSE H.26 - ADDITIONAL LABOR REQUIREMENTS

The Contractor shall conduct payroll and job-site audits and conduct investigations of complaints as authorized by DOE on all Davis Bacon activity, including any subcontracts, as may be necessary to determine compliance with the Davis-Bacon Act. Where violations are found, the Contractor shall report them to the DOE Contracting Officer. The Contracting Officer may require that the Contractor assist in the determination of the amount of restitution and withholding of funds from a subcontractor so that sufficient funds are withheld to provide restitution for back wages due for workers inappropriately classified and paid, fringe benefits owed, overtime payments due, and liquidated damages assessed.

The Contractor shall notify the Contracting Officer of any complaints and significant labor standards violations whether caused by the Contractor or subcontractors. The Contractor shall assist DOE and or/the Department of Labor in the investigation of any alleged violations or disputes involving labor standards. The Contractor shall furnish a Davis-Bacon Semi-Annual Enforcement Report to DOE by April 21 and October 21 each year.

CLAUSE H.27 - RESERVED

CLAUSE H.28 - 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) pursuant to the clause entitled "Standards of Contractor Performance Evaluation". This PEMP shall establish the expected strategic results in the areas of mission accomplishment, stewardship and operational excellence. Mission performance goals shall be established by agreement with each major customer of the Laboratory, and customer evaluation will be the primary means of evaluating 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 at the systems level.
- (b) 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.

CLAUSE H.29 - LOBBYING RESTRICTION (ENERGY AND WATER ACT, 2006)

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

CLAUSE H.30 – ELECTRONIC SUBCONTRACTING REPORTING SYSTEM

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 contractor'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.

CLAUSE H.31 – DOE MENTOR-PROTÉGÉ PROGRAM

The Department of Energy has established a Mentor-Protégé Program to encourage its prime contractors to assist small business firms certified under section 8(a) of the Small Business Act by SBA, other small disadvantaged businesses, women-owned small businesses, Historically Black Colleges and Universities and Minority Institutions, other minority institutions of higher learning and small business concerns owned and controlled by service disabled veterans in enhancing their business abilities. Consistent with the provisions set forth in DEAR 919.70, the Contractor shall Mentor at least one active Protégé company at all times during the performance on this contract. Mentor and Protégé firms will develop and submit "lessons learned" evaluations to DOE at the conclusion of the contract.

CLAUSE H.32 – DISPOSAL OF REAL PROPERTY

Disposal of any permanent or temporary interest in real property shall require the prior approval of the Contracting Officer.

CLAUSE H.33 – ACTIVITIES DURING CONTRACT TRANSITION

(a) The Contractor will commence Transition Activities as soon as possible after the award of the contract and complete the following activities (to the extent identified in the Contractor's proposal) within two months, after contract award, except as otherwise authorized by the Contracting Officer. It is currently estimated that Transition Activities will be completed by September 30, 2006. After completion of these activities, and such other Transition Activities as may be authorized by the Contracting Officer, the Contractor shall advise the Contracting Officer that it is ready to assume full responsibility for the Laboratory. Upon receipt of written notification from the Contracting Officer that the Transition Activities are considered complete, the Contractor shall assume full responsibility for the Laboratory, effective 12:01 A.M., the next day.

(1) Scientific Research. Complete the activities that will allow the Contractor

to assume control of Argonne's scientific programs and facilities.

- (2) Management Systems. Analyze and initiate enhancements, if needed, to the existing management systems (e.g., Integrated Safety Management, Integrated Safeguards and Security Management, Finance, Property, Procurement, Information Management, Life Cycle Asset Management, Human Resources) to assure system adequacy.
- (3) Assignment of Existing Agreements. Initiate and complete the planning to assume the responsibility for existing regulatory (e.g., environmental permits) and commercial agreements (e.g., subcontracts, purchase orders, leases, etc.) to be assigned to the Contractor by the University of Chicago, or otherwise taken over by Contractor. Initiate the assumption of said responsibility with the objective of being eighty-five percent (85%) complete by the end of the transition period.
- (4) Joint Reconciliation Property Inventory. Initiate and complete the planning for a joint reconciliation property inventory with the University of Chicago, see Clauses I.136(i)(2)(ii) or I.137(i)(2)(ii), in accordance with overall guidance provided by the Contracting Officer.
- (5) Litigation Management. Contractor shall consult with the University of Chicago and DOE to determine whether Contractor should assume some level of management of any litigation resulting from laboratory operations predating the effective date of this contract. The decision should be based on consideration of cost efficiency, named parties, relevance of retrospective insurance, and DOE litigation management guidelines.
- (6) Human Resources
 - (a) The Contractor will transition the workforce without break in service as operations cease under Contract W-31-109-ENG-38.
 - (b) The Contractor will conduct work force planning, documented in the form of a plan, to be submitted to the Contracting Officer for review and approval at the end of the Transition Period. The Plan will identify the status of critical-skills and the strategy for the recruitment and/or retention of those skills, and specifically address the issues set forth below.
 - (i) If the Contractor intends to utilize "Joint Appointees" with the University of Chicago and/or any other educational institutions; how said "Joint Appointees" will be utilized; terms to be utilized; and a description of the reimbursement process to be negotiated with the University of Chicago and/or other educational institutions.

- (ii) Incentive compensation strategy for "Key Personnel," other management personnel, and other employees, as appropriate, that meets the criteria of the DOE Acquisition Guide, Chapter 70.5, which can be located on the internet at <http://rfpArgonne.sc.doe.gov/>.
 - (iii) The terms and conditions of employment that will be applicable to the bargaining unit workforce, demonstrating consistency with the respective collective bargaining agreements previously providing coverage.
 - (iv) RESERVED
 - (v) The following will be specifically addressed under the *Human Resources Compensation Plan*, required to be submitted within 30 days of Contract award, pursuant to H.22(b)(7):
 - (A) The framework for the pension and health/welfare benefits applicable to the transferring workforce, with an assessment of the benefit value relative to those provided by the University of Chicago for Argonne employees.
 - (B) A framework of the total compensation package applicable to new hires under the contract.
-
- (b) Except as provided in paragraph (c) below or as otherwise specifically agreed to by the Contractor and the Contracting Officer, all of the provisions of this contract shall apply to the Contractor's performance of Transition Activities.
- (c) The following contract articles or portions thereof as noted below do not apply to the Contractor's Transition Activities:
- (1) Clause C.4 - Statement of Work;
 - (2) Clause F.1 - Period of Performance, except that pertaining to the Transition Period;
 - (3) Clause H.1 - Laboratory Facilities;
 - (4) Clause H.2 - Long-Range Planning, Program Development and Budgetary Administration;
 - (5) Clause H.8 - Care of Laboratory Animals;

- (6) Clause H.13 - Protection of Human Subjects;
 - (7) Clause H.15 - Standards of Contractor Performance Evaluation;
 - (8) Clause H.16 - Cap on Liability;
 - (9) Clause H.23 - Contractor Acceptance of Notices of Violations or Alleged Violations, Fines, and Penalties;
 - (10) Clause H.24 - Allocation of Responsibilities for Contractor Environmental Compliance Activities;
 - (11) Clause I.11 - Required Sources for Helium and Helium Usage Data;
 - (12) Clause I.100 - Total Available Fee: Base Fee Amount and Performance Fee Amount;
 - (13) Clause I.101 - Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts;
 - (14) Clause I.102 - Work For Others Program (Non-DOE Funded Work);
 - (15) Clause I.122 - Preexisting Conditions;
 - (16) Clause I.128 - Work for Others Funding Authorization; and
 - (17) Appendix B - Performance Evaluation and Measurement Plan.
- (d) 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 \$1,238,501. 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.

CLAUSE H.34 – SPECIAL FINANCIAL INSTITUTION ACCOUNT AGREEMENT

- (a) DOE shall make arrangements to execute a Special Financial Institution Account Agreement which will be effective through January 31, 2007, and will be provided to the Contractor for its execution.
- (b) Contractor agrees to procure, in accordance with DOE requirements, a Special Financial Institution Account Agreement in sufficient time to have said Agreement in place and effective as of February 1, 2007.

CLAUSE H.35 – AGREEMENTS AND COMMITMENTS

- (a) The resources proposed by the Contractor and accepted by the Government are incorporated into the contract as set forth below:

The contractor has committed to provide \$15,484,110 in financial obligations in the performance of this Contract. This amount is exclusive of 1) Jacobs Engineering Business Systems Reviews, in excess of one and 2) the University of Chicago's Executive Education Program. Details of the commitments are set forth in Section J.4, Appendix D – Contractor Commitments.

The Contractor shall provide the above described resources in the amount, manner, and schedule as specified in Contractor's response to Provision L.8 of RFP No. DE-RP02-06CH11357. If the Contractor fails to provide any or all of these resources or to make progress toward providing these resources, the Government may exercise any of its rights and remedies under the contract, including those contained in the provision of the Section I clause entitled, "Conditional Payment of Fee, Profit, and Other Incentives – Facility Management Contracts."

- (b) Any costs incurred by the Contractor in providing any of these resources are expressly unallowable under the contract.

CLAUSE H.36 – MODIFICATION AUTHORITY

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.

CLAUSE H.37 – RESERVED

CLAUSE H.38 – RESERVED

CLAUSE H.39 – IMPLEMENTATION OF ITER AGREEMENT ANNEX ON INFORMATION AND INTELLECTUAL PROPERTY

- (1) Contractor agrees to be subject to the Agreement on the Establishment of the ITER International Fusion Energy Organization for the Joint Implementation of the ITER Project (the ITER Agreement). Specifically, and without limitation, subject inventions and data produced in the performance of this contract under the ITER project, and subcontracts entered thereunder are subject to the license rights and other obligations provided for in the ITER Agreement's Annex on Information and Intellectual Property (the Annex) attached as Attachment J.14, Appendix N of this contract.
- (2) Background intellectual property of the Contractor, as defined in the Annex, is also subject to the provisions of the ITER Agreement. In particular and under certain circumstances, Contractor shall use its best efforts to identify Background Intellectual Property (including patents and data) and grant a nonexclusive license in certain Background Intellectual Property to the Parties to the ITER Agreement (Members) for commercial fusion use. However, in individual cases and for good cause shown in writing, the requirement for such a license may be waived by DOE.
- (3) Further, in accordance with the Annex, intellectual property generated by Contractor employees who are designated as seconded staff to the ITER organization shall be owned by the ITER Organization and the Contractor gets no rights to such intellectual property except those rights provided the Contractor by the Government as a result of the Government being a member of the ITER Organization. Contractor agrees that Contractor employee agreements will be suitably modified as necessary to effectuate this provision and that employees will be required to execute a separate second agreement with the ITER Organization.
- (4) The Government may provide to each ITER Member, as defined in the ITER Agreement, the right, for non-commercial uses, to translate, reproduce, and publicly distribute data produced in the performance of this contract under the ITER project. Contractor will deliver, at a minimum, to DOE, copies of all ITER-generated peer-reviewed manuscripts provided to scientific and technical journal publishers which may then be distributed to Members in accordance with the ITER Agreement. Contractor agrees that the ITER Organization may impose a different delivery requirement in order to be in compliance with this paragraph and that, if so, Contractor agrees that this paragraph may be suitably modified to be in accordance with the ITER Agreement.
- (5) Contractor shall include the ITER patent and data rights clauses transmitted to the Contractor from the U.S. ITER Project Office, suitably modified to identify the parties, in all ITER subcontracts, at any tier, for experimental, developmental, demonstration or research work and in subcontracts in which technical data or computer software is expected to be produced or in subcontracts that contain a requirement for production or delivery of data.

CLAUSE H.40 – INFORMATION TECHNOLOGY ACQUISITIONS

All information technology acquisitions shall include the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology's website at <http://checklists.nist.gov> commensurate with the mission of the contract and conducive to the research and development efforts of the laboratory. This requirement shall be included in all subcontracts which are for information technology acquisitions; and the Laboratory CIO shall annually certify to the DOE Site Office Contracting Officer that this requirement is being incorporated into information technology acquisitions.

CLAUSE H.41 - 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.

CLAUSE H.42 – CONTRACTOR ASSURANCE SYSTEM

- (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.

APPENDIX A

ADVANCE UNDERSTANDINGS ON HUMAN RESOURCES

SECTION I – INTRODUCTION

- a. This Advance Understanding is intended to document the principles and measures for evaluation of the Contractor's Human Resource Management (CHRM) programs and other items of allowable personnel costs and related expenses not specifically addressed elsewhere under this contract. Any changes to the personnel policies or practices in place as of the effective date of this contract which would increase costs, is subject to approval in advance by the Contracting Officer.
- b. ANL CHRM programs will comply with the Federal Acquisition Regulation (FAR) cost principles and FAR contract clauses, as supplemented by the Department of Energy Acquisition Regulation (DEAR), for all HR programs, including but not limited to Compensation, Health and Welfare Benefits, Pension Plans, Training and Development, Employee Morale, Professional Society Memberships, Employee and Labor Relations, Diversity/Equal Employment Opportunity/Affirmative Action, Recruitment and Relocation. The Contractor shall use effective management review procedures and internal controls to assure compliance with the FAR and DEAR.
- c. This Appendix A may be modified from time to time by agreement of the Parties. Either Party may, at any time, request that this Appendix A be revised, and the Parties hereto agree to negotiate in good faith concerning any requested revision. Revisions to this Appendix A shall be accomplished by executing modification to the prime contract.
- d. The Laboratory Director may make exceptions to the provisions of Appendix A when such exceptions are in the best interest of contract operations or will facilitate or enhance contract performance and are approved in advance by the Contracting Officer.
- e. The Contractor, or designated representative, shall promptly furnish all reports and information required or otherwise indicated in this Advance Understanding to the Contracting Officer. The Contractor recognizes that the Contracting Officer or designated representative may make other data requests from time to time and the Contractor agrees to cooperate in meeting requests.
- f. It is understood that no provision of this Appendix can affect any right guaranteed to a bargaining unit employee by the terms of a Collective Bargaining Agreement.

SECTION II - HUMAN RESOURCES STRATEGY, BUSINESS PLANNING AND PERFORMANCE MANAGEMENT

- a. The Institutional Plan highlights areas important to DOE and aligns with critical contract vision components. The HR Strategic Plan, which is subordinate to the Institutional Plan, will be reviewed with DOE representatives at least annually. Contract performance metrics and measures will be developed in partnership with DOE and are detailed in the Appendix B. A Balanced Scorecard (BSC) approach will be utilized as the principal means for annually assessing the performance of the contractor human resources function.
- b. CHRM performance objectives and targets will align with, and facilitate the achievement of the Laboratory mission; be limited in number; focus on strategic results, systems-based measures, and assessment against industry best practices; be developed annually and mutually agreed upon by the Contractor and DOE in accordance with Appendix B and the BSC process; be reviewed periodically to target key strategic objectives and results; and include outcomes that result in cost effective management of laboratory human resources to support accomplishment of DOE and ANL mission, strategy and objectives.

SECTION III - COMPENSATION

- a. **Compensation Standards.** The Contractor and DOE agree that the elements below will be included in Laboratory compensation systems and will be the basis upon which DOE will evaluate the Contractor's self-assessment required under Clause H.22 of this contract. The elements are:
 1. philosophy and strategy for all pay delivery programs;
 2. method for establishing the internal value of jobs;
 3. method for relating the internal value of jobs to the external market;
 4. system that links individual and/or group performance to compensation decisions;
 5. method for planning and monitoring the expenditure of funds;
 6. method for ensuring compliance with applicable laws and regulations;
 7. system for communicating the program to employees, and
 8. system for internal controls and self-assessment.
- b. **Compensation.**
 1. Any position change or salary action for the leadership work force (L4 and above) shall require prior approval by the Laboratory Director.
 2. Any combination of salary increases for any employee in a single Compensation Increase Plan (CIP) year (March 1st to February 28th), including merit increases

and those resulting from reclassification and promotion, which result in a salary that is 15% greater than at the start of the CIP year shall be reported annually to the Contracting Officer (March 31st).

3. Annual funding for promotions shall be included in the Compensation Increase Plan (CIP) request as a discrete line item. The request for funding for promotions will be based upon actual use for the prior year and anticipated future use, such as classification restructuring.
 4. Additional compensation (non-base for exempt employees and base for non-exempt employees) may be paid to an employee who is temporarily assigned responsibilities of a higher level position or other significant duties not part of the employee's regular position. The result of the additional compensation shall fall within the salary range parameters as published annually. Assignments beyond six months must be approved by the Director, Human Resources. Compensation increases greater than 20% or exceeding one year require Contracting Officer approval. All supplements shall be reported annually to the Contracting Officer.
 5. Foreign assignment allowances for employees whose physical work location is outside the United States are allowable provided they do not exceed terms offered by DOE (as described in the DOE Handbook on Overseas Assignments). Such allowances will be reported annually to the Contracting Officer.
 6. Hiring and retention supplements. The Laboratory Director is authorized to implement a Hiring and Retention Supplement Program. Contracting Officer approval is required for all changes to policy impacting supplement maximums. The Laboratory will provide the Contracting Officer an annual report specifying supplements paid and effectiveness of the program.
 7. Notwithstanding any other term or condition set forth in this Contract, the Contracting Officer's approval of compensation actions pursuant to H.22(b)(8) will consider:
 - A. relative alignment of proposed salaries with subordinate levels;
 - B. available market data, comparing total-cash compensation;
 - C. total compensation relative to the Executive Compensation Benchmark Amount established periodically by the Office of Federal Procurement Policy (OFPP) and the most recent Acquisition Letter addressing Contractor Executive Compensation.
- c. **Compensation Increase Plan (CIP).**
1. The Contractor shall submit an annual CIP proposal by November 30th for Contracting Officer approval.

2. In order to pay "on-market-on-average," in the calculation of market position, Laboratory salary data shall be matched to survey data extrapolated to September 1st the midpoint of the CIP year (March 1st to February 28th).
3. The CIP shall be expressed as a percentage of the projected February 28 base payroll.
4. The Contractor is authorized to make minor shifts of funds across employment categories after approval of the CIP in order to meet the compensation requirements of its organization, subject to the following guidelines:
 - Minor shift is defined as up to 10% of approved CIP funds by employment category (e.g., Scientist/Engineer, Admin, Exempt, Non-Exempt).
 - Total increase expenditures will be limited to the total CIP approved.
 - Special Adjustment funds will not be interchangeable.
 - Contractors will notify the Contracting Officer that funds have been shifted.

d. Payment of Joint Appointees.

Home institutions shall be reimbursed for the joint appointee's salary, fringe benefits and overhead according to the percentage of time the joint appointee works for the host institution. The Laboratory may supplement the joint appointee's salary if it is determined that the home university's pay scale is not competitive with the Argonne pay scale for a comparable position. These supplements are non-base. Such payment must be made through an agreement with the home institution, and the supplemental amount will be paid directly to the home institution. In no case will the home institution be reimbursed an amount greater than what a comparable position at the Laboratory would receive. Such transactions will be approved by the Contracting Officer on a case by case basis and will be documented in the quarterly report provided to DOE.

SECTION IV - ANCILLARY PAY COMPONENTS

a. Extended work week.

When deemed essential to the performance of work under this contract, the Laboratory Director may establish an extended work week, during which exempt employees may receive additional pay for work over 50 hours in a period of unusual or extreme conditions expected to extend beyond eight consecutive weeks. The employee's salary will be increased in direct proportion to the scheduled increase in hours worked in the payroll week.

b. Medical evacuation services/insurance.

Employees required to perform official travel to foreign countries where local care is substandard (according to U.S. standards) may have coverage that pays for evacuation services to an acceptable medical facility in a proximal location on an urgent or emergency basis. The policy shall cover evacuation, expatriation of remains, and ancillary costs associated with the incident. Costs for such coverage for eligible employees are allowable.

SECTION V - PAYMENTS ON SEPARATION

a. **Reduction in Force (RIF).** When employees are terminated due to a RIF, the following costs are allowable:

1. **Pay in lieu of notice.** Any employee who is laid off or terminated due to a RIF may be given pay in lieu of the required minimum written notice of termination. Accumulated vacation credit is also paid.

2. **Severance pay benefit.** The severance payment shall be calculated as follows:

Exempt Employees: 2% of current annual salary multiplied by each year of service (partial years are computed to the nearest tenth of a year), with a minimum benefit of one (1) month's salary, and maximum benefit of 25% of current annual salary.

Non-Exempt Employees: 5 day's pay for one year of service, and 2.5 day's pay for each additional year, with a maximum benefit of 65 day's pay. A day's pay is eight times the basic hourly rate in effect on the date of notice of termination. Full-time equivalent service of six months or more in a year is counted as one year of service.

Under an approved workforce reduction plan, severance payments may be made at the Contractor's option to an employee within a reduction-in-force grouping who is not scheduled for termination but who offers to terminate employment, thereby eliminating the need for terminating another employee involuntarily.

b. **Payments upon termination other than RIF.**

1. **Sick leave.** Accumulated sick leave is not payable upon termination and may not be used beyond a predetermined date of termination.

2. **Vacation.** Accumulated vacation is payable at termination at the rate in effect as of the date of termination, including any shift differential.

SECTION VI - LABOR RELATIONS

a. **Labor Management**

The Contractor is authorized to enter into and administer its labor agreements in accordance with their negotiated terms subject to the provisions below:

1. 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.
2. 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.
3. The Contractor will furnish reports as may be required from time to time by the Contracting Officer.

b. Collective Bargaining.

Costs of fringe benefits and wages paid to employees under collective bargaining agreements are allowable. All other reasonable costs and expenses, such as expenses relating to the grievance process, arbitration and arbitration awards, and other costs and expenses incurred pursuant to applicable collective bargaining agreements and revisions thereto, are also allowable.

SECTION VII – PROGRAMS INVOLVING EMPLOYEE ABSENCE FROM THE WORKPLACE

a. Paid Leave.

The Laboratory will provide a reasonable and cost effective paid leave program. Paid leave includes vacation, holiday, sick, jury, bereavement, military, voting and personal leave according to approved Laboratory schedules. Only leave accruals included in the annual benefit value study shall be allowable.

b. Unpaid Leaves of Absence.

The Laboratory will not count periods of approved leave without pay as Contractor service except as approved by the Contracting Officer. The effect of leave without pay on retirement and group insurance plans is governed by the group insurance and retirement plan policies in effect at the time the leave begins in accordance with applicable law and Contractor policy.

c. **Temporary Assignments.**

1. **Assignments of Laboratory Employees to Other Institutions for Teaching and Research.** The Contractor shall be reimbursed for expenditures consistent with Laboratory policy arising out of an employee assignment to another institution for teaching and/or research if the assignment is approved by the other institution and does not exceed one year. Contracting Officer approval is required for deviations from these limitations.
2. **Assignments in Accord with a Fellowship Award.** The Contractor shall be reimbursed for expenditures consistent with Laboratory policy arising out of an employee assignment to another institution under a fellowship or similar honorary award made by an educational foundation, a similar organization, or the Government. Such assignments must be approved by the Laboratory Director and approved by the Contracting Officer and will be for a period of one year or less. Employees who receive such assignments will be required to return to their employment at the Laboratory upon completion of such an assignment. Contracting Officer approval is required for deviations from these limitations.
3. **Assignments under an Exchange Program.** The Contractor shall be reimbursed for expenditures consistent with Laboratory policy arising out of an employee assignment to another institution under an exchange program as mutually agreed with other institutions. Such assignments will normally be for a period of one year or less and must be approved by the Laboratory Director and coordinated with the Contracting Officer. Contracting Officer approval is required for deviations from these limitations.
4. **Assignment of Laboratory Employees to DOE and other Federal and Non-Federal Entities.** Other than listed above, assignments shall be made in accordance with DOE policy.

d. **Military Leave.**

Military leave and associated pay is authorized in accordance with Contractor policies, and/or State or Federal law.

e. **Security Leave.**

Wages or salaries paid to employees when access authorization is suspended by DOE will be allowable costs under the following conditions:

If a position which does not require access authorization is not available, the Laboratory Director or designee may place the employee on leave with pay at his or her base compensation until final disposition of the case. Leave with pay requires

the Contracting Officer's concurrence that no position is available to which the employee might reasonably be transferred.

SECTION VIII – EMPLOYEE TRAINING, EDUCATION AND DEVELOPMENT

- a. The Laboratory Director or designee shall send an annual report to the Contracting Officer providing the number of employees participating in training, and education and development programs and the dollars spent.
- b. The Laboratory shall establish training, education and development programs that are consistent with DOE requirements and guidance, industry standards, and other Federal, State and local regulations. These programs shall ensure that employees are well-qualified and competent to manage facilities and meet mission requirements through administrative, professional and technical excellence.

1. Training.

The Laboratory may permit selected employees to attend training classes while receiving full pay in order to enable them to acquire the needed skills to qualify them for more responsible jobs and maintain competence in their fields.

2. Education.

- A. The Laboratory may approve and support educational courses taken by
- B. employees which serve to improve efficiency and productivity of Laboratory operations, increase needed skills, or prepare employees for increased responsibilities.
- C. An employee or third Party on behalf of an employee may be paid for tuition, required textbooks and fees for courses approved in advance by the Laboratory.

3. Development.

The Contractor shall be reimbursed for the cost of personnel training and personnel development programs, including but not limited to, apprenticeship training, supervisory training, management development, career updating and redirection, and work-study and other programs supporting the development of staff in fields of interest to the Laboratory. Authorized courses include, but are not limited to:

- International Atomic Energy Agency (IAEA) Training Courses on Nuclear Power Planning and Implementation;

- IAEA-sponsored manpower development courses;
- Pre-college programs to encourage students to select careers in science and mathematics and enhance capabilities of teachers.

c. Payments to Instructors.

The Contractor is authorized to pay appropriate fees to instructors (including Laboratory employees) who conduct after-hours classes for Laboratory employees.

d. Special Professional Services.

The Laboratory may pay fees to persons who deliver lectures, conduct courses or symposia, or perform similar professional services to the Laboratory. The fee per day of service shall not exceed \$1,000 and the total honoraria given an individual may not exceed \$5,000 in a calendar year. Fees shall be based upon the individual's professional standing, the value of the service, the degree of inconvenience to the individual, amount of time devoted to the service, and other relevant factors. In the case of persons from nearby institutions or organizations, the fee may include an amount in lieu of reasonable expenses. Travel expenses which are reimbursable under the provisions of this Appendix may be paid in addition to the fee.

e. Advanced Degree Program.

The Contractor may grant academic leave with pay to employees for the purpose of continuing or completing a graduate-level degree related to their work. Such leave will be limited to a total of nine months. This program shall be limited to a lifetime limit of 12 months without the approval of the Contracting Officer.

Eligible employees must have been continuously employed by the Contractor in a regular full time status for three or more years before applying for academic leave.

An employee to whom academic leave is granted is required to furnish a written statement that the employee will return to employment at the Laboratory upon completion of such leave and remain in employment for a minimum of one year. If the employee does not return to the Laboratory, all education costs paid to or for the employee for that academic leave shall be reimbursed to the Laboratory by the employee. Should such employee be transferred to another DOE facility other than the Laboratory within a period equal to the length of the academic leave, the action

will be reviewed with the Contracting Officer to determine appropriate action. Any travel involved will be at the employee's expense. Status of Employment - Employees on leave under this Article will continue to be Laboratory employees and shall be covered by all applicable provisions of this Appendix.

SECTION IX – EMPLOYEE PROGRAMS

a. Service and retirement awards.

The Contractor may expend from the Laboratory's operating budget, an amount not to exceed \$30.00 for each regular full-time employee on the payroll September 30 of each year without Contracting Officer approval. The types of awards may include, for example, Length of Service/Retirement Recognition; Safety Awards; Suggestion Program, Special Employee recognition, and other non-performance based awards.

b. Performance award programs.

The Contractor may recognize employees or groups of employees who have distinguished themselves by their significant contributions and outstanding performance in the course of their work through distribution of non-base compensation awards (i.e., such as annual performance bonus). These may be provided to employees based on individual performance as documented in annual performance appraisals. Non-base compensation award programs are subject to DOE Contracting Officer approval.

Additionally, noteworthy achievements and special efforts (e.g., Pacesetter Awards) may be recognized by the presentation of cash awards, plaques, certificates, and memorabilia to individuals or groups of employees.

Annually the Contractor shall provide the Contracting Officer with reports on the individual award program expenditures.

c. Patent Awards.

An award of \$250 may be made to any Contractor employee, assigned employee, loaned employee, or other affiliate of the Contractor whose development of an invention resulting from the employee's work for the Contractor under the Prime Contract is processed for a United States patent application, up to a maximum of \$1500 in awards for a team of co-creators on any one application. This award can also be made to creators of noteworthy copyrighted material or mask works upon filing of the copyright for the purpose of registration and commercialization through licensing by the Laboratory.

An award of \$500 may be paid to each such inventor upon the issuance of a United States patent, up to a maximum of \$3,000 in awards for multiple inventors on any one patent.

The Contractor may provide each such inventor with a plaque signifying the issuance of a United States patent.

d. Cost of Health Services.

The Contractor shall be reimbursed for the costs of operating the Health Division for Laboratory employees and directly reimbursed for the cost of health services for DOE site employees, including but not limited to the following: Pre-employment physicals and other medical examinations required to meet Laboratory employment requirements, operation of a health unit which provides medical care for occupational injuries and to provide minor relief for minor physical complaints of employees while at the Laboratory and health examinations provided as a health service for employees.

e. Other.

1. The Contractor may develop, administer and support a variety of employee programs. These programs may include athletic, cultural, and family activities. Participant fees may be collected to partially offset the cost of some or all of these activities. Appropriate facilities, utilities, and maintenance may be provided by the Laboratory. Entertainment costs, including costs of amusement, diversions, and social activities are unallowable, as well as directly related costs such as tickets, meals, lodging, rentals, transportation and gratuities.
2. Wellness program. Costs of a Wellness Program to promote employee health and fitness are allowable. This program may include activities such as stress management, smoking cessation, exercise, nutrition, weight loss and other early detection screenings for which cost sharing with participants may occur. A report of wellness activities and associated costs shall be provided to the Contracting Officer annually.
3. Employee Assistance Program. The Contractor shall (1) maintain a program of preventive services, education, short-term counseling, coordination with and referrals to outside agencies, and follow-up upon return to work that conforms to the requirements of 10 CFR 707.6, Employee Assistance, Education, and Training; (2) Submit for approval by the Contracting Officer any changes to the employee assistance program implementation plan; (3) Prepare and submit information to DOE concerning Employee Assistance Program services as requested by the Contracting Officer. Such reports shall not include individual identifiers.
4. Employee Communications. The costs incurred in the publication, printing and distribution of a house organ, handbooks and other employee communication media designed to effectuate better employee relations and understanding of Appendix A and current employment regulations shall be reimbursed and performed in a cost effective manner.

SECTION X - COSTS OF RECRUITING PERSONNEL

The Contractor may incur costs for the recruitment of personnel, as follows:

1. Costs of advertising and agency and consultant fees.
2. Recruiting Expenses - The Laboratory may reimburse consistent with other
3. provisions of this contract, employees traveling for recruiting purposes the actual cost incurred for the following expenses: transportation, lodging, and meals for prospective employees and, when approved, by the Laboratory Director, for spouses or representatives of academic institutions, professional societies and other scientific organizations and incidental expenses incurred in recruiting.
4. New or prospective employees who have been offered and have accepted a position, and who are required to take a pre-placement physical examination, shall be reimbursed for costs of the physical examination.
5. Costs associated with pre-employment screening shall be allowable.

SECTION XI – COMMUNITY PROGRAMS

Subject to prior approval of the Contracting Officer, the costs of participating in community service activities may be allowable to the extent participation does not adversely impact contract performance.

SECTION XII – REDUCTIONS IN CONTRACTOR EMPLOYMENT

Reductions in employment will be conducted in accordance with the contractor’s personnel management policies and practices and in accordance with applicable Departmental guidance on workforce restructuring, as revised from time to time.

a. Workforce Restructuring Actions

- (1) The Contractor will notify or request approval of workforce restructuring actions in accordance with the following:

RESTRUCTURING ACTION	#EMPLOYEES POTENTIALLY IMPACTED	ACTION REQUIRED
Voluntary	50-99	CO Notification
Voluntary	100+	CO Approval
Involuntary	50+	CO Approval

- (A) Notifications will include a business case outlining the drivers necessitating restructuring activity, an implementation strategy and communication plan.
 - (B) Actions requiring approval will additionally require a workforce restructuring plan prepared in accordance with DOE policy.
 - (C) Notifications and Approval actions shall be submitted a minimum of 10 business days prior to announcement to employees.
 - (D) Waivers or self-select forms that vary from those provided in DOE policy documents are subject to approval by DOE.
- (2) Any employee who volunteers for layoff or retirement during a time period in which the Contractor has a DOE approved active reduction in force plan will be eligible for severance pay provided the termination is accepted by Laboratory management and results in the retention of an employee who otherwise would have been laid off.
 - (3) The Contractor, to the extent practicable, shall provide outplacement services in the forms of skills assessment and resume preparation to those employees who are involuntarily separated due to a layoff.

b. Work Force Planning Requirement.

In addition to conducting both short and long term work force planning, the Laboratory will assist the Department in developing a Work Force Restructuring Plan pursuant to Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (the Act) and the above referenced guidance.

The Work Force Restructuring Plan will be generic in nature; that is, it will identify how employees will be accommodated whenever they are impacted by a reduction-in-force. The plan will be updated as required by law, and, if necessary, may be modified to address the needs of a particular restructuring action, including the provision of enhanced benefits. When modification to the approved plan is necessary due to changing circumstances, stakeholder input or implementation experience, proposed changes to the established plan shall be submitted for Departmental approval.

c. Notice to Stakeholders.

The Laboratory shall provide notification of work force restructuring action for any occurrence that is expected to involve the involuntary separation of 50 or more employees, to employees, the public, and stakeholders, in accordance with a schedule approved by the Contracting Officer or his designee. The above noted

stakeholders will be notified of and consulted with concerning the pending action as early as possible following agreement between DOE and the Laboratory of the intended action.

d. Displaced Worker Health Benefits Programs.

The allowable costs for the DOE Displaced Worker Health Benefits Program are:

1. First Year: The Laboratory's contribution for an active employee.
2. Second Year: One half of the Laboratory's COBRA premium.
3. Third and subsequent years: Reasonable administrative costs that exceed the 2 percent administrative fee paid by the displaced worker.

SECTION XIII – EMPLOYEE BENEFITS

a. Energy Employees' Occupational Illness Compensation Program Act (EEOICPA).

The Laboratory agrees to comply with requests for information, records, and other program requirements to ensure the orderly administration and adjudication of claims under the EEOICPA.

b. Dependent Care Facilities.

The Laboratory is authorized to provide a dependent care benefit program consistent with the written directions of the Contracting Officer.

The Contractor shall sub-contract the operation of the dependent care center, unless otherwise approved by the Contracting Officer. Support costs for labor, materials, and supplies expended for the operation of a dependent care facility shall not be allowable under any circumstances unless the facility is for the exclusive use of DOE and Laboratory employees and except for any expense items such as utilities, maintenance, food services, medical services, or supplies already used in support of site operations and readily available. The cost of meals shall not be allowable.