AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

2. AMENDMENT/MODIFICATION NO. 0464
3. EFFECTIVE DATE See Block 16C
4. REQUISITION/PURCHASE REQ. NO.
5. PROJECT NO. (If applicable)

6. ISSUED BY U.S. Department of Energy
CODE 00516
ORNL Site Office
P.O. Box 2008
Oak Ridge TN 37831

7. ADMINISTERED BY (If other than Item 6) CODE 00516
U.S. Department of Energy
ORNL Site Office
P.O. Box 2008
Oak Ridge TN 37831

8. NAME AND ADDRESS OF CONTRACTOR (No. street, county, State and ZIP Code)

OAK RIDGE ASSOCIATED UNIVERSITIES, INC.
P.O. BOX 117
OAK RIDGE TN 37830-6218

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)
See Schedule

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:
☐ D OTHER (Specify type of modification and authority)
☑ X Public Law 95-91 and Mutual Agreement

E. IMPORTANT: Contractor ☑ is not. ☐ is required to sign this document and return ______ copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible)

Technical Services for Management of the Oak Ridge Institute for Science and Education This modification accomplishes the following:

1. deletes Requirements Change Notice (RCN) No. ORAU-30 and replaces it with RCN No. ORAU-31 (attached);

2. deletes Clause H.38 Employee Compensation: Pay and Benefits (Nov 2011);

3. deletes Clause H.41 Workers' Compensation Insurance (Nov 2011) and replaces it with Clause H.41 Workers' Compensation Insurance (Sept 2013) (attached);

Continued...

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)

Ivan A. Boatner, Vice President & General Counsel

16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)

Mary L. Crow

15B. CONTRACT OR OFFER (Signatures of person authorized to sign)

15C. DATE SIGNED 10/1/2013

16B. UNITED STATES OF AMERICA

16C. DATE SIGNED 09/30/2013

(Validity of document depends on the date of execution.)

NSN 7540-01-152-8070

Previous edition unusable

STANDARD FORM 30 (REV. 10-83) Prescribed by GSA
FAR (48 CFR) 53.243
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</table>

4. adds Clause H.43 Employee Compensation: Pay and Benefits (Sept 2013) (attached); and

4. adds Clause I.131 52.222-17 Nondisplacement of Qualified Workers (Jan 2013) (attached).

Period of Performance: 01/01/2006 to 12/31/2015
**U.S. Department of Energy**  
**REQUIREMENTS CHANGE NOTICE**

| PROJECT: Contract Baseline Documentation | LOCATION: Oak Ridge, Tennessee |
| CONTRACTOR: Oak Ridge Associated Universities (ORAU) | |

This Requirements Change Notice (RCN) No. ORAU-31 incorporates into Section J, Attachment D, of Contract No. DE-AC05-06OR23100, the attached list of applicable documents, which have been assessed against the terms and conditions of the subject contract in accordance with the above-referenced clause. This is a complete numbered list of administrative requirements and a representation of environment, safety, and health (ES&H) requirements. Information regarding ES&H-related directives and their applicability can only be obtained from specific WSS sets. ES&H-related directives in WSS sets have an ES&H footnote. Changes to Section J, Attachment D, are indicated by bold type. Below is a list of the directives incorporated herein:

**EXECUTIVE SUMMARY OF DIRECTIVE CHANGES**

**ADDITIONS:**
- DOE M 205.1-3, Administrative Change 1
- DOE O 414.1D, Administrative Change 1

**DELETIONS:**
- DOE M 205.1-3
- DOE O 414.1D

**EXTENSIONS:**

**UPDATES:**

**IMPLEMENTATION PLANS (REVISED COMPLIANCE STATUS):**

**ADMINISTRATIVE CORRECTION:**

**DOE AUTHORIZING SIGNATURE:**

![Signature](signature.jpg)

Michele Branton, Contracting Officer's Representative  

**DATE:** 9/23/2012
## Summary of Changes for RCN-31
*Baseline List of Required Compliance Documents*

<table>
<thead>
<tr>
<th>Directive</th>
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<td>OSO Letter 06/20/2013</td>
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Attachment D
Baseline List of
Required Compliance Documents

List B - List of Applicable Directives

**DOE Directives**
may be found at the following address:
http://www.directives.doe.gov/

<table>
<thead>
<tr>
<th>Required Compliance Document</th>
<th>Document Date</th>
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<td>Budget Formulation</td>
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<td>05/08/2008</td>
<td>Continuity Programs</td>
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Compliance Line: Revised Implementation Plan approved by DOE on 02/15/2011.

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<th>Notes and Comments</th>
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<td>11/02/2005</td>
<td>Comprehensive Emergency Management System</td>
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<td>DOE O 153.1</td>
<td>06/27/2007</td>
<td>Departmental Radiological Emergency Response Assets</td>
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<td>DOE O 200.1A</td>
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<td>Information Technology Management</td>
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<td>Telecommunications Security Manual (Official Use Only)</td>
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<td>Department of Energy Cyber Security Program</td>
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<td>Identity, Credential, and Access Management (ICAM)</td>
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<td>DOE Corporate Operating Experience Program</td>
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<td>DOE O 221.1A</td>
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<td>Reporting Fraud, Waste and Abuse to the Office of Inspector General</td>
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<td>DOE O 221.2A</td>
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<td>12/17/2001</td>
<td>Establishment of Management Decisions on Office of Inspector General Reports</td>
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<td>DOE O 225.1B</td>
<td>03/04/2011</td>
<td>Accident Investigations</td>
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<td>DOE O 227.1</td>
<td>08/30/2011</td>
<td>Independent Oversight Program</td>
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<td>DOE O 231.1B Administrative Change 1</td>
<td>11/28/2012</td>
<td>Environment, Safety and Health Reporting</td>
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<td>DOE O 232.2</td>
<td>08/30/2011</td>
<td>Occurrence Reporting and Processing of Operations Information</td>
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<td>DOE O 241.1B</td>
<td>12/13/2010</td>
<td>Scientific and Technical Information</td>
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## Attachment D
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List B - List of Applicable Directives

<table>
<thead>
<tr>
<th>DOE Directives</th>
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<tr>
<td>DOE O 243.1A</td>
<td>11/07/2011 Records Management Program</td>
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<td>02/02/2006 Vital Records</td>
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<td>DOE O 252.1A, Administrative Change 1</td>
<td>03/12/2013 Technical Standards Program</td>
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<td>DOE O 350.1, Change 3</td>
<td>02/23/2010 Contractor Human Resource Management Programs</td>
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<tr>
<td>DOE O 410.2</td>
<td>08/17/2009 Management of Nuclear Materials</td>
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<td>DOE O 412.1</td>
<td>04/20/1999 Work Authorization System</td>
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<td>DOE O 413.1B</td>
<td>10/28/2008 Internal Control Program</td>
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<td>DOE O 413.3B</td>
<td>11/29/2010 Program and Project Management for the Acquisition of Capital Assets</td>
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<td><strong>DOE O 414.1D Administrative 1</strong></td>
<td>05/08/2013 Quality Assurance</td>
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<td>11/28/2012 Facility Safety</td>
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<td>DOE O 430.1B, Change 2</td>
<td>04/25/2011 Real Property Asset Management</td>
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<td>DOE O 435.1, Change 1</td>
<td>08/28/2001 Radioactive Waste Management</td>
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<td><strong>DOE O 436.1</strong></td>
<td>05/02/2011 Departmental Sustainability</td>
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<td><strong>DOE M 440.1-1A</strong></td>
<td>01/09/2006 DOE Explosives Safety Manual</td>
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<td><strong>DOE O 440.2C, Administrative Change 1</strong></td>
<td>06/22/2011 Aviation Management and Safety</td>
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<td><strong>DOE O 442.1A</strong></td>
<td>06/06/2001 Department of Energy Employee Concerns Program</td>
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<td><strong>DOE O 442.2</strong></td>
<td>07/29/2011 Differing Professional Opinions for Technical Issues Involving Environmental, Safety and Health Technical Concerns</td>
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**DOE Directives may be found at the following address:**


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**Footnote:**

Footnote (1)

Footnote (2)

Footnote (3)

Footnote (4)
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<tr>
<td>DOE O 443.1B</td>
<td>Protection of Human Subjects</td>
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<td>DOE P 450.7</td>
<td>Department of Energy Environment, Safety and Health (ES&amp;H) Goals</td>
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<td>DOE O 452.7</td>
<td>Protection of Use Control Vulnerabilities and Designs</td>
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<td>DOE O 458.1, Administrative Change 2</td>
<td>Radiation Protection of the Public and the Environment</td>
<td>ES&amp;H-related Directive included in WSS. See Footnote (3).</td>
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<td>DOE O 460.1C</td>
<td>Packaging and Transportation Safety</td>
<td>ES&amp;H-related Directive included in WSS. See Footnote (1).</td>
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<td>DOE O 460.2A</td>
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<td>DOE M 460.2-1A</td>
<td>Radioactive Material Transportation Practices Manual for Use With DOE O 460.2A</td>
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<td>Safeguards and Security Program</td>
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<td>Graded Security Protection (GSP) Policy</td>
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<td>Identification and Protection of Unclassified Controlled Nuclear Information</td>
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<td>Nuclear Material Control and Accountability</td>
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<td>Counterintelligence Program</td>
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<td>DOE O 475.2A</td>
<td>Identifying Classified Information</td>
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<td>DOE M 481.1-1A Change 1</td>
<td>Reimbursable Work For Non-Federal Sponsors</td>
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<td>Work for Others (Non-Department of Energy Funded Work)</td>
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<td>01/06/2003</td>
<td>Accounting</td>
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<td>Mail Services User’s Manual</td>
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<td>Department of Energy Personal Property Management Program</td>
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<td>DOE 2340.1C</td>
<td>06/08/1992</td>
<td>Coordination of General Accounting Office Activities</td>
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<td>Oak Ridge Institute for Science and Education (ORISE) Work Smart Standards Set</td>
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**FOOTNOTES:**

(1) This document is not directly applicable to the Contractor; it is included in the list of applicable documents because the Contractor must provide certain information or input to DOE in order for DOE to comply with requirements specified in the document.

(2) The Contractor does not perform activities which fall within the scope of this directive at this time. If these activities are conducted at some future date, the requirements contained in this document will be applicable to the Contractor and programs to implement the requirements of this document will be established when and if such activities are to be initiated.

(3) This document is ES&H-related and appears on the current Work Smart Standards Set. In a WSS Set, the document may be referenced in its entirety or only certain chapters, paragraphs, or sections.

(4) The requirements of this document are applicable; however, specific additional clarification or guidance is required from DOE before such requirements can be implemented in full as indicated in written requests for direction from the Contractor.
H.38 EMPLOYEE COMPENSATION: PAY AND BENEFITS (SEP 2013)

(a) **Total Compensation System**

The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system consistent with FAR 31.205-6 and DEAR 970.3102-05-6; “Compensation for Personal Services” (“Total Compensation System”). DOE-approved standards, if any, shall be applied to the Total Compensation System. The Contractor’s Total Compensation System shall be fully documented, consistently applied, and acceptable to the Contracting Officer. Periodic appraisals of contractor performance with respect to the Contractors’ Total Compensation System will be conducted.

(1) The description of the Contractor Employee Compensation Program should include the following components;

   a. Philosophy and strategy for all pay delivery programs.
   b. System for establishing a job worth hierarchy.
   c. Method for relating internal job worth hierarchy to external market.
   d. System that links individual and/or group performance to compensation decisions.
   e. Method for planning and monitoring the expenditure of funds.
   f. Method for ensuring compliance with applicable laws and regulations.
   g. System for communicating the programs to employees.
   h. System for internal controls and self-assessment.
   i. System to ensure that reimbursement of compensation, including stipends, for employees who are on joint appointments with a parent or other organization shall be on a pro-rated basis.

(b) **Reports and Information**

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

(1) An Annual Contractor Salary-Wage Increase Expenditure Report to include, at a minimum, breakouts for merit, promotion, variable pay, special adjustments, and structure movements for each pay structure showing actual against approved amounts.

(2) A list of the top five most highly compensated executives as defined in FAR 31.205-6(p)(2)(ii) and their total cash compensation at the time of Contract award, and at the time of any subsequent change to their total cash compensation. This should be the same information provided to the Central Contractor Registration (CCR) per FAR 52.204-10.

(3) The Compensation and Benefits Report no later than March 1 of each year.
(c) Pay and Benefit Programs

The Contractor shall maintain pay and benefit programs for its Employees; provided, however, that employees scheduled to work fewer than 20 hours per week receive only those benefits required by law. Employees are eligible for benefits, subject to the terms, conditions, and limitations of each benefit program.

(1) Cash Compensation

(A) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract:

(i) Any proposed major compensation program design changes prior to implementation.

(ii) An Annual Compensation Increase Plan (CIP). The Compensation Increase Plan (CIP) for a Contractor that has received Contracting Officer approval for having an Employee Compensation Program with the components identified under (a)(1) above should include the following components and data:

(1) Market analysis summary, including a comparison of average pay to market average pay.

(2) Merit Fund requests for each Employee Group (i.e., Exempt and Non-Exempt)

(3) Aging factors used for escalating survey data

(4) Projection of escalation in the market

(5) Information to support proposed structure adjustments, if any.

(6) Analysis to support special adjustments or promotions that exceed the 1% Promotion/Adjustment fund authorized under Appendix A.

(7) Discussion of recruitment/retention issues (e.g., turnover and hiring) relevant to the proposed increase amounts

(8) A discussion of the impact of budget and business constraints on the CIP amount.

(9) Information to support a request for variable pay beyond that authorized under Appendix A.

(10) Reimbursed salary levels are used to establish the annual CIP fund.
(b) The proposed plan totals shall be expressed as a percentage of the payroll for the end of the previous plan year.

(c) All pay actions granted under the compensation increase plan are fully charged when they occur regardless of time of year in which the action transpires and whether the employee terminates before year end.

(d) Specific Employee or Payroll groups (e.g., exempt, nonexempt) for which CIP amounts are intended shall be defined by mutual agreement between the contractor and the Contracting Officer.

(e) The Contracting Officer may adjust the CIP amount after approval based on major changes in factors that significantly affect the plan amount (for example, in the event of a major reduction in force or significant ramp-up).

(f) The Contractor may make minor shifts of merit funds between employment categories (e.g., Exempt and Non-Exempt) 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 the approved merit funds from one employment category to another.
- Total merit increase expenditures will be limited to the total merit fund approved.
- Contractors will notify the Contracting Officer that funds have been shifted.

(iii) 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).

(B) 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 (c)(1)(A)(iii) 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.
(C) Severance Pay is not payable to an employee under this Contract if the employee:

   (i) Voluntarily separates, resigns or retires from employment, (unless associated with a workforce restructuring action in accordance with Appendix A, Section XI, Reductions in Contractor Employment)

   (ii) Is offered employment with a successor/replacement contractor,

   (iii) Is offered employment with a parent or affiliated company, or

   (iv) Is discharged for cause.

(D) Service Credit for purposes of determining severance pay does not include any period of prior service for which severance pay has been previously paid through a DOE cost-reimbursement contract.

(d) Pension and Other Benefit Programs

(1) No presumption of allowability will exist when the Contractor implements a new benefit plan or makes changes to existing benefit plans for Employees or until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changed benefit plans.

(2) Cost reimbursement for Employee pension and other benefit programs sponsored by the Contractor will be based on the Contracting Officer’s approval of Contractor actions pursuant to an approved “Employee Benefits Value Study” and an “Employee Benefits Cost Survey Comparison” as described below.

(3) Unless otherwise stated, or as directed by the Contracting Officer, the Contractor shall submit the studies required in paragraphs (A) and (B) below. The studies shall be used by the Contractor in calculating the cost of benefits under existing benefit plans. An Employee Benefits Value (Ben-Val) Study Method using no less than 15 comparator organizations and an Employee Benefits Cost Survey comparison Method shall be used in this evaluation to establish an appropriate comparison method. In addition, the Contractor shall submit updated studies to the Contracting Officer for approval prior to the adoption of any change to a pension or other benefit plan.

(A) The Ben-Val, every two years for each benefit tier (e.g., group of employees receiving a benefit package based on date of hire), which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to Employees measured against the RV of benefit programs offered by comparator companies approved by the Contracting Officer. To the extent that the value studies do not address post retirement benefits other than pensions, the Contractor shall provide
a separate cost and plan design data comparison for the post retirement benefits other than pensions using external benchmarks derived from nationally recognized and Contracting Officer approved survey sources and,

(B) An Employee Benefits Cost Study Comparison, annually for each benefit tier that analyzes the Contractor’s employee benefits cost for Employees on a per capita basis per full time equivalent employee and as a percent of payroll and compares it with the cost reported by the U.S. Department of Labor’s Bureau of Labor Statistics or other Contracting Officer approved broad based national survey.

(4) When the net benefit value exceeds the comparator group by more than five percent, the Contractor shall submit a corrective action plan to the Contracting Officer for approval, unless waived in writing by the Contracting Officer.

(5) When the average total benefit per capita cost or total benefit cost as a percent of payroll exceeds the comparator group by more than five percent, the Contractor shall submit an analysis of the specific plan costs that are above the per capita cost range or total benefit cost as a percent of payroll and a corrective action plan to achieve conformance with a Contracting Officer directed per capita cost range or total benefit cost as a percent of payroll, unless waived in writing by the Contracting Officer.

(6) Within two years of Contracting Officer approval of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and per capita cost range or percent of payroll as approved by the Contracting Officer.

(7) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.

(8) Cost reimbursement for post-retirement benefits other than pensions (PRBs) is contingent on DOE approved service eligibility requirements for PRB that shall be based on a minimum period of continuous employment service not less than 5 years under a DOE cost reimbursement contract(s) immediately prior to retirement. Unless required by Federal or State law, advance funding of PRBs is not allowable.

(9) Each contractor sponsoring a Defined Benefit pension plan and/or postretirement benefit plan will participate in the annual plan management process which includes written responses to a questionnaire regarding plan management, providing forecasted estimates of future reimbursements in connection with the plan and participating in a conference call to discuss the contractor submission.
(10) Each contractor will respond to quarterly data calls issued through ibenefits, or its successor system.

(e) Establishment and Maintenance of Pension Plans for which DOE Reimburses Costs

(1) Employees working for the Contractor shall only accrue credit for service under this Contract after the date of Contract award.

(2) Except for Commingled Plans in existence as of the effective date of the contract, any pension plan maintained by the Contractor for which DOE reimburses costs, shall be maintained as a separate pension plan distinct from any other pension plan that provides credit for service not performed under a DOE cost-reimbursement contract. When deemed appropriate by the Contracting Officer, Commingled Plans shall be converted to separate plans at the time of new contract award or the extension of a contract.

(f) Basic Requirements

The Contractor shall adhere to the requirements set forth below in the establishment and administration of pension plans that are reimbursed by DOE pursuant to cost reimbursement contracts for management and operation of DOE facilities and pursuant to other cost reimbursement facilities contracts. Pension Plans include Defined Benefit and Defined Contribution plans.

(1) The Contractor shall become a sponsor of the existing pension and other benefit plans (or comparable successor plans), including other post-retirement benefit (PRB) plans, as applicable, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of those plans consistent with the requirements of ERISA and the Internal Revenue Code (IRC). The Contractor shall carry over the length of service credit and leave balances accrued as of the date of the Contractor’s assumption of Contract performance.

(2) DOE approval is required prior to implementing any change to a pension plan covering prime cost reimbursement contracts for management and operation of DOE facilities and other contracts when designated. Changes shall be in accordance with and pursuant to the terms and conditions of the contract.

(3) Each contractor pension plan shall be subjected to a limited-scope audit annually that satisfies the requirements of ERISA section 103, except that every third year the contractor must conduct a full-scope audit satisfying ERISA section 103. Alternatively, the contractor may conduct a full-scope audit satisfying ERISA section 103 annually. In all cases, the Contractor must submit the audit results to the contracting officer. In years in which a limited scope audit is conducted, the contractor must provide the contracting officer...
with a copy of the qualified trustee or custodian’s certification regarding the investment information that provides the basis for the plan sponsor to satisfy reporting requirements under ERISA section 104.

(4) The Contractor shall comply with the requirements of ERISA if applicable to the pension plan and any other applicable laws.

(g) Reporting Requirements for Designated Contracts

The following reports shall be submitted to DOE as soon as possible after the last day of the plan year by the contractor responsible for each designated pension plan funded by DOE but no later than the dates specified below:

(1) Actuarial Valuation Reports. The annual actuarial valuation report for each DOE-reimbursed pension plan and when a pension plan is commingled, the contractor shall submit separate reports for DOE’s portion and the plan total by the due date for filing IRS Form 5500.

(2) Forms 5500. Copies of IRS Forms 5500 with Schedules for each DOE-funded pension plan, no later than that submitted to the IRS.

(3) Forms 5300. Copies of all forms in the 5300 series submitted to the IRS that document the establishment, amendment, termination, spin-off, or merger of a plan submitted to the IRS.

(h) Changes to Pension Plans

At least sixty (60) days prior to the adoption of any changes to a pension plan, the Contractor shall submit the information required below, as applicable, to the Contracting Officer for approval or disapproval and a determination as to whether the costs are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6.

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

   (A) a copy of the current plan document (as conformed to show all prior plan amendments), with the proposed new amendment indicated in redline/strikeout;
   (B) except in circumstances where the Contracting Officer indicates that it is unnecessary, a legal explanation of the proposed changes from the counsel used by the plan for purposes of compliance with all legal requirements applicable to private sector defined benefit pension plans;
   (C) the Summary Plan Description; and,
   (D) any such additional information as requested by the Contracting Officer.
(2) Contractors shall submit new benefit plans and changes to plan design or funding methodology with justification to the Contracting Officer for approval. The justification must:

(A) demonstrate the effect of the plan changes on the contract net benefit value or per capita benefit costs,
(B) provide the dollar estimate of savings or costs, and
(C) provide the basis of determining the estimated savings or cost.

(i) Terminating Plans

DOE contractors shall not terminate any pension plan (Commingled or site specific) without requesting Departmental approval at least 60 days prior to the scheduled date of plan termination.

(j) Special Programs

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

(k) Definitions

(1) **Commingled Plans.** Cover employees from the contractor's private operations and its DOE contract work.

(2) **Current Liability.** The sum of all plan liabilities to employees and their beneficiaries. Current liability includes only benefits accrued to the date of valuation. This liability is commonly expressed as a present value.

(3) **Defined Benefit Pension Plan.** Provides a specific benefit at retirement that is determined pursuant to the formula in the pension plan document.

(4) **Defined Contribution Pension Plan.** Provides benefits to each participant based on the amount held in the participant’s account. Funds in the account may be comprised of employer contributions, employee contributions, investment returns on behalf of that plan participant and/or other amounts credited to the participant’s account.

(5) **Pension Fund.** The portfolio of investments and cash provided by employer and employee contributions and investment returns. A pension fund exists to defray pension plan benefit outlays and (at the option of the plan sponsor) the administrative expenses of the plan.
(6) **Separate Plan.** Must satisfy IRC Sec. 414(l) definition of a single plan, designate assets for the exclusive benefit of employees under DOE contract, exist under a separate plan document (having its own DOL plan number) that is distinct from corporate plan documents and identify the contractor as the plan sponsor.

(End of Clause)

**H.41 WORKERS’ COMPENSATION INSURANCE (SEPT 2013)**

(a) Contractors, other than those whose workers’ compensation coverage is provided through a state funded arrangement or a corporate benefits program, shall submit to the Contracting Officer for approval all new compensation policies and all initial proposals for self-insurance (contractors shall provide copies to the Contracting Officer of all renewal policies for workers compensation).

(b) Workers compensation loss income benefit payments, when supplemented by other programs (such as salary continuation, short-term disability) are to be administered so that total benefit payments from all sources shall not exceed 100 percent of the employee’s net pay.

(c) Contractors approve all workers compensation settlement claims up to the threshold established by the Contracting Officer for DOE approval and submit all settlement claims above the threshold to DOE for approval.

(d) The Contractor shall obtain approval from the CO before making any significant change to its workers compensation coverage and shall furnish reports as may be required from time to time by the CO.

(End of Clause)

**I.131 NONDISPLACEMENT OF QUALIFIED WORKERS (JAN 2013)**

(a) “Service employee”, as used in this clause, means any person engaged in the performance of a service contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541. The term “service employee” includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(b) The Contractor and its subcontractors shall, except as otherwise provided herein, in good faith offer those service employees employed under the predecessor contract whose employment will be terminated as a result of award of this contract or the expiration of the contract under which the service employees were hired, a right of first refusal of employment under this contract in positions for which the service employees are qualified.
(1) The Contractor and its subcontractors shall determine the number of service employees necessary for efficient performance of this contract and may elect to employ fewer employees than the predecessor Contractor employed in connection with performance of the work.

(2) Except as provided in paragraph (c) of this clause, there shall be no employment opening under this contract, and the Contractor and any subcontractors shall not offer employment under this contract, to any person prior to having complied fully with this obligation.

(i) The successor Contractor and its subcontractors shall make a bona fide express offer of employment to each service employee as provided herein and shall state the time within which the service employee must accept such offer, but in no case shall the period within which the service employee must accept the offer of employment be less than 10 days.

(ii) The successor Contractor and its subcontractors shall decide any question concerning a service employee’s qualifications based upon the individual’s education and employment history, with particular emphasis on the employee's experience on the predecessor contract, and the Contractor may utilize employment screening processes only when such processes are provided for by the contracting agency, are conditions of the service contract, and are consistent with Executive Order 13495.

(iii) Where the successor Contractor does not initially offer employment to all the predecessor contract service employees, the obligation to offer employment shall continue for 90 days after the successor contractor’s first date of performance on the contract.

(iv) An offer of employment will be presumed to be bona fide even if it is not for a position similar to the one the employee previously held, but is one for which the employee is qualified, and even if it is subject to different employment terms and conditions, including changes to pay or benefits. (See 29 CFR 9.12 for a detailed description of a bonafide offer of employment).

(c)(1) Notwithstanding the obligation under paragraph (b) of this clause, the successor Contractor and any subcontractors (i) may employ under this contract any service employee who has worked for the contractor or subcontractor for at least three months immediately preceding the commencement of this contract and who would otherwise face lay-off or discharge, (ii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor who are not service employees within the meaning of the Service Contract Act, 41 U.S.C. 6701(3), and (iii) are not required to offer a right of first refusal to any service employee(s) of the predecessor contractor whom the Contractor or any of its subcontractors reasonably believes, based on the particular service employee’s past performance, has failed to perform suitably on the job (see 29 CFR 9.12 (c)(4) for additional information). The successor Contractor bears the responsibility of demonstrating the appropriateness of claiming any of these exceptions.

(2) In addition, any Contractor or subcontractor that has been certified by the U.S. Small Business Administration as a HUBZone small business concern must ensure that it complies with the statutory and regulatory requirements of the HUBZone Program (e.g., it must ensure that at least 35 percent of all of its employees reside within a
HUBZone). The HUBZone small business Contractor or subcontractor must consider whether it can meet the requirements of this clause and Executive Order 13495 while also ensuring it meets the HUBZone Program’s requirements.

(3) Nothing in this clause shall be construed to permit a Contractor or subcontractor to fail to comply with any provision of any other Executive order or law. For example, the requirements of the HUBZone Program (see FAR subpart 19.13), Executive Order 11246 (Equal Employment Opportunity), and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 may conflict, in certain circumstances, with the requirements of Executive Order 13495. All applicable laws and Executive orders must be satisfied in tandem with, and if necessary prior to, the requirements of Executive Order 13495, 29 CFR part 9, and this clause.

(d)(1) The Contractor shall, not less than 30 days before completion of the Contractor’s performance of services on the contract, furnish the Contracting Officer with a certified list of the names of all service employees working under this contract and its subcontracts at the time the list is submitted. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts with either the current or predecessor contractors or their subcontractors. Where changes to the workforce are made after the submission of the certified list described in this paragraph, the Contractor shall, in accordance with paragraph (e) of this clause, not less than 10 days before completion of the services on this contract, furnish the Contracting Officer with an updated certified list of the names of all service employees employed within the last month of contract performance. The updated list shall also contain anniversary dates of employment, and, where applicable, dates of separation of each service employee under the contract and its predecessor contracts with either the current or predecessor Contractors or their subcontractors.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(3) The Contracting Officer will direct the predecessor Contractor to provide written notice (Appendix B to 29 CFR chapter 9) to service employees of their possible right to an offer of employment with the successor contractor. Where a significant portion of the predecessor Contractor’s workforce is not fluent in English, the notice shall be provided in English and the language(s) with which service employees are more familiar. The written notice shall be—

(i) Posted in a conspicuous place at the worksite; or

(ii) Delivered to the service employees individually. If such delivery is via e-mail, the notification must result in an electronic delivery receipt or some other reliable confirmation that the intended recipient received the notice.

(e)(1) If required in accordance with 52.222-41(n), the predecessor Contractor shall, not less than 10 days before completion of this contract, furnish the Contracting Officer a certified list of the names of all service employees working under this contract and its subcontracts during the last month of contract performance. The list shall also contain anniversary dates of employment of each service employee under this contract and its predecessor contracts either with the current or predecessor

Contractors or their subcontractors. If there are no changes to the workforce before the predecessor contract is completed, then the predecessor Contractor is not required to submit a revised list 10 days prior to completion of performance and the requirements of 52.222-41(n) are met. When there are changes to the workforce after submission of the 30-day list, the predecessor Contractor shall submit a revised certified list not less than 10 days prior to performance completion.

(2) Immediately upon receipt of the certified service employee list but not before contract award, the contracting officer shall provide the certified service employee list to the successor contractor, and, if requested, to employees of the predecessor contractor or subcontractors or their authorized representatives.

(f) The Contractor and subcontractor shall maintain the following records (regardless of format, e.g., paper or electronic) of its compliance with this clause for not less than a period of three years from the date the records were created.

(1) Copies of any written offers of employment or a contemporaneous written record of any oral offers of employment, including the date, location, and attendance roster of any service employee meeting(s) at which the offers were extended, a summary of each meeting, a copy of any written notice that may have been distributed, and the names of the service employees from the predecessor contract to whom an offer was made.

(2) A copy of any record that forms the basis for any exemption claimed under this part.

(3) A copy of the service employee list provided to or received from the contracting agency.

(4) An entry on the pay records of the amount of any retroactive payment of wages or compensation under the supervision of the Administrator of the Wage and Hour Division to each service employee, the period covered by such payment, and the date of payment, and a copy of any receipt form provided by or authorized by the Wage and Hour Division. The Contractor shall also deliver a copy of the receipt to the service employee and file the original, as evidence of payment by the Contractor and receipt by the service employee, with the Administrator or an authorized representative within 10 days after payment is made.

(g) Disputes concerning the requirements of this clause shall not be subject to the general disputes clause (52.223-1) of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR part 9. Disputes within the meaning of this clause include disputes between or among any of the following: The Contractor, the contracting agency, the U.S. Department of Labor, and the service employees under the contract or its predecessor contract. The Contracting Officer will refer any service employee who wishes to file a complaint, or ask questions concerning this contract clause, to the: Branch of Government Contracts Enforcement, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210. Contact e-mail: displaced@dol.gov.

(h) The Contractor shall cooperate in any review or investigation by the Department of Labor into possible violations of the provisions of this clause and shall make such records requested by such official(s) available for inspection, copying, or transcription upon request.

(i) If it is determined, pursuant to regulations issued by the Secretary of Labor (Secretary), that the Contractor or its subcontractors are not in compliance with the
requirements of this clause or any regulation or order of the Secretary, appropriate sanctions may be imposed and remedies invoked against the Contractor or its subcontractors, as provided in Executive Order 13495, the regulations, and relevant orders of the Secretary, or as otherwise provided by law.

(j) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance. However, if the Contractor, as a result of such direction, becomes involved in litigation with a subcontractor, or is threatened with such involvement, the Contractor may request that the United States, through the Secretary, enter into such litigation to protect the interests of the United States.

(k) The Contracting Officer will withhold, or cause to be withheld, from the prime Contractor under this or any other Government contract with the same prime Contractor, such sums as an authorized official of the Department of Labor requests, upon a determination by the Administrator, the Administrative Law Judge, or the Administrative Review Board, that there has been a failure to comply with the terms of this clause and that wages lost as a result of the violations are due to service employees or that other monetary relief is appropriate. If the Contracting Officer or the Administrator, upon final order of the Secretary, finds that the Contractor has failed to provide a list of the names of service employees working under the contract, the Contracting Officer may, in his or her discretion, or upon request by the Administrator, take such action as may be necessary to cause the suspension of the payment of contract funds until such time as the list is provided to the Contracting Officer.

(l) Subcontracts. In every subcontract over the simplified acquisition threshold entered into in order to perform services under this contract, the Contractor shall include a provision that ensures—

(1) That each subcontractor will honor the requirements of paragraphs (b) through (c) of this clause with respect to the service employees of a predecessor subcontractor or subcontractors working under this contract, as well as of a predecessor Contractor and its subcontractors;

(2) That the subcontractor will provide the Contractor with the information about the service employees of the subcontractor needed by the Contractor to comply with paragraphs (d) and (e) of this clause; and

(3) The recordkeeping requirements of paragraph (f) of this clause.

(End of clause)