

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT

1. CONTRACT ID CODE

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1 | 2

| | | | |
|---|---|---|--------------------------------|
| 2. AMENDMENT/MODIFICATION NO. 0100 | 3. EFFECTIVE DATE See Block 16C | 4. REQUISITION/PURCHASE REQ. NO. | 5. PROJECT NO. (If applicable) |
| 6. ISSUED BY U.S. Department of Energy Brookhaven Site Office 53 Bell Avenue, Building 464 Upton, NY 11973-5000 | CODE 06005 | 7. ADMINISTERED BY (If other than Item 6) Code | 06005 |

| | | |
|---|-------------------------------------|--|
| 8. NAME AND ADDRESS OF CONTRACTOR (No. street, county, State and ZIP Code) Brookhaven Science Associates, LLC Attn: Brian Boyle Brookhaven National Laboratory Building 460, PO Box 5000 Upton, New York 11973-5000 | <input checked="" type="checkbox"/> | 9. A. AMENDMENT OF SOLICITATION NO. |
| | | 9. B. DATED (SEE ITEM 11) |
| | <input checked="" type="checkbox"/> | 10. A. MODIFICATION OF Contract/Order NO. DE-SC0012704 |
| | | 10. B. DATED (SEE ITEM 13) 12/22/2014 |
| CODE N/A | FACILITY CODE N/A | |

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)
N/A


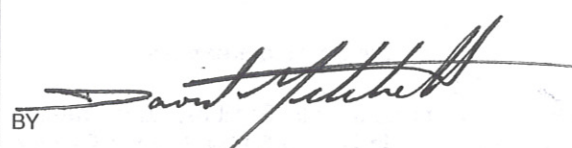
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

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| <input type="checkbox"/> | 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. |
| <input type="checkbox"/> | 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). |
| <input checked="" type="checkbox"/> | C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Mutual agreement of the parties |
| <input type="checkbox"/> | D. OTHER (Specify type of modification and authority) |

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 heading, including solicitation/contract subject matter where feasible.)

This Modification is issued to revise Part I, Section H – Special Contract Requirements, TOC, update clauses H.21 and H.43; revise Part II, Section I – Contract Clauses, TOC; delete clause I.111; revise Part III, Section J – List of Documents, Exhibits, Attachments, TOC; update Appendix A – Advance Understanding on Human Resources.

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|---|--|
| 15A. NAME AND TITLE OF SIGNER (Type or print) Anne Troutman General Counsel | 16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) David R. Mitchell Contracting Officer |
| 15B. CONTRACTOR/OFFEROR | 16B. UNITED STATES OF AMERICA |
| 15C. DATE SIGNED 11/29/17 | 16C. DATE SIGNED 11/30/17 |
|  (Signature of person authorized to sign) |  BY _____ (Signature of Contracting Officer) |

| | | | |
|---------------------------|---|------|----|
| CONTINUATION SHEET | REFERENCE NO. OF DOCUMENT BEING CONTINUED | PAGE | OF |
| | DE-SC0012704/0100 | 2 | 2 |

14. Description of Amendment/Modification (continued):

1. **Part I, Section H – Special Contract Requirements, Table of Contents (TOC):** Section H TOC is revised to update clauses H.21 and H.43.

The following clauses have been revised; insert the attachment provided herein:

- a. **Clause H.21, Employee Compensation: Pay and Benefits** – This clause is updated IAW Policy Flash 2018-04 / Acquisition Letter 2018-02 dated October 17, 2017 to make changes to sections (d) Pension and Other Benefit Programs and (h) Changes to Pension Plans.
 - b. **Clause H.43, Management and Operating Subcontract Reporting Capability (MOSRC)** – This clause is updated IAW Policy Flash 2018-08 dated November 7, 2017.
2. **Part II, Section I – Contract Clauses, Table of Contents (TOC):** Section I TOC is revised to delete clause I.111.

The following clause has been deleted:

- a. **Clause I.111 – DEAR 952.223-78, Sustainable Acquisition (OCT 2010)** – This clause is hereby deleted from the contract. Clause I.111 is duplicative of Prime Contract clause I.134, DEAR 970.5223-7 - Sustainable Acquisition Program (Oct 2010). Clause I.111 is now titled, “RESERVED”.
3. **Part III, Section J – List of Documents, Exhibits, Attachments, Table of Contents (TOC):** Section J TOC is revised to reflect the following: Update Appendix A – Advance Understanding on Human Resources.
 - a. **Appendix A – Advance Understanding on Human Resources** has been revised to update the appendix IAW Office of Science Policy Guidance (SC/PG) 2018-01. Replace the prior version with the attachment provided herein.

Attachments:

- Part I, Section H – Special Contract Requirements
 - ❖ Clauses: H.21, H.43
- Part III, Section J – List of Documents, Exhibits, Attachments
 - ❖ Appendix A – Advance Understanding on Human Resources

CLAUSE H.21 – EMPLOYEE COMPENSATION: PAY AND BENEFITS

(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.
- (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. Reimbursement for individual compensation is subject to the limits established by 41 U.S.C. 4304a(16).

(1) Cash Compensation

- (A) The Contractor shall submit the following, as applicable, 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) Variable pay programs/incentives. If not already authorized under Appendix A of the contract, a justification shall be provided with proposed costs and impacts to budget, if any.
 - (iii) In the absence of Departmental policy to the contrary (e.g., Secretarial pay freeze) a Contractor that meets the criteria, as set forth below, is not required to submit a Compensation Increase Plan (CIP) request to the Contracting Officer for an advance determination of cost allowability for a Merit Increase fund or Promotion/Adjustment fund:

- The Merit Increase fund does not exceed the mean percent increase included in the annual Departmental guidance providing the WorldatWork Salary Budget Survey's salary increase projected for the CIP year. The Promotion/Adjustment fund does not exceed 1% percent in total.
 - The budget used for both Merit Increase funds and Promotion/Adjustment funds shall be based on the payroll for the end of the previous CIP year.
 - Salary structure adjustments do not exceed the mean WorldatWork structure adjustments projected for the CIP year and communicated through the annual Department CIP guidance.
 - Please note: No later than the first day of the CIP cycle, Contractors must provide notification to the Contracting Officer of planned increases and position to market data by mutually agreed-upon employment categories.
- (iv) If a Contractor does not meet the criteria included in (iii) above, a CIP must be submitted to the Contracting Officer for an advance determination of cost allowability.

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., S&E, Administrative, Technical, Exempt/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 authorized 1% Promotion/Adjustment fund.
 - (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.
- (v) Reimbursed salary levels are used to establish the annual CIP fund.
 - (vi) All pay actions granted under the CIP are fully charged when they occur regardless of time of year in which the action transpires and whether the employee terminates before year end.
 - (vii) 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.
 - (viii) 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).
 - (ix) The Contractor may make minor shifts of merit funds between employment categories (e.g., Scientist/Engineer, Admin, Exempt, Non-Exempt) after approval of the CIP or if criteria under (c)(1)(A)(iii) was met, 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 (e.g., 10% of Admin merit funds shifted to Technician employment category).

- Total merit increase expenditures will be limited to the total merit fund authorized.
 - Contractors will notify the Contracting Officer that funds have been shifted.
- (x) Individual compensation actions for the top contractor official (e.g., laboratory director/plant manager or equivalent) and Key Personnel not included in the CIP. For those Key Personnel included in the CIP, DOE will approve salaries upon the initial contract award and when Key Personnel are replaced during the life of the contract. DOE will have access to all individual salary reimbursements. This access is provided for transparency; DOE will not approve individual salary actions (except as previously stated).
- (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 stated 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. The contractor shall not be reimbursed for the top contractor official's incentive compensation. The base salary reimbursement level for the top contractor official establishes the maximum allowable salary reimbursement under the contract when compared to subordinate compensation, which would include base salary and any potential incentive compensation under an incentive compensation agreement. 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 that increase costs or are contrary to Departmental policy or written instruction or until the Contracting Officer makes a determination of cost allowability for reimbursement for new or changed benefit plans. Changes shall be in accordance with and pursuant to the terms and conditions of the contract. Advance notification, rather than approval, is required for changes that do not increase costs and are not contrary to Departmental policy or written instruction.
- (2) 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 which increases costs.
 - (A) The Ben-Val, every three 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 postretirement benefits other than pensions, the Contractor shall provide a separate cost and plan design data comparison for the postretirement 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 as a percent of payroll and compares it with the cost as a percent of payroll, including geographic factor adjustments, reported by the U.S. Department of Labor's Bureau of Labor Statistics or other Contracting Officer approved broad based national survey.
- (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 benefit costs as a percent of payroll exceed the comparator group by more than five percent, when and if required by the Contracting Officer, the Contractor shall submit an analysis of the specific plan costs that result in or contribute to the percent of payroll exceeding the costs of the comparator group and submit a corrective action plan if directed by the Contracting Officer.
- (6) Within two years, or longer period as agreed to between the Contractor and the Contracting Officer, of the Contracting Officer acceptance of the Contractor's corrective action plan, the Contractor shall align employee benefit programs with the benefit value and the cost as a percent of payroll in accordance with its corrective action plan.
- (7) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.
- (8) Cost reimbursement for post-retirement benefits 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(s) 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 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) Each Contractor defined contribution pension plan shall be subjected to a limited-scope audit annually that satisfies the requirements of ERISA section 103. The Contractor must submit the audit results to the Contracting Officer. In addition, 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.

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

- (3) 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) Forms 5500. Copies of IRS Forms 5500 with Schedules for each DOE-funded pension plan, no later than that submitted to the IRS.
- (2) Forms 5300. Copies of all forms in the 5300 series submitted to the IRS that document the establishment, amendment, termination, spin-off, or merger of a plan submitted to the IRS.

(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 to the Contracting Officer. The Contracting Officer must approve plan changes that increase costs as part of a determination as to whether the costs are deemed allowable pursuant to FAR 31.205-6, as supplemented by DEAR 970.3102-05-6.

- (1) For proposed changes to pension plans and pension plan funding, the Contractor shall provide the following to the Contracting Officer:
 - (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, as applicable [see (d)(1) above]. The justification must:
 - (A) demonstrate the effect of the plan changes on the contract net benefit value or percent of payroll 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
 - (1) DOE Contractors shall not terminate any pension plan (Commingled or site specific) without requesting Departmental approval at least 60 days prior to the scheduled date of plan termination.
 - (2) To the extent possible, the Contractor shall satisfy plan liabilities to plan participants by the purchase of annuities through competitive bidding on the open annuity market or lump sum payouts. The Contractor shall apply the assumptions and procedures of the Pension Benefit Guaranty Corporation.
- (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(I) definition of a single plan, designate assets for the exclusive benefit of employees under DOE contract, exist under a separate plan document (having its own Department of Labor plan number) that is distinct from corporate plan documents and identify the Contractor as the plan sponsor.

CLAUSE H.43 – MANAGEMENT AND OPERATING CONTRACTOR SUBCONTRACT REPORTING (NOV 2017)

(a) *Definitions.* As used in this clause—

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long- term arrangements for materials or supplies that would benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect costs.

“Management and Operating Contractor Subcontract Reporting Capability (MOSRC)” means a DOE system and associated processes to collect key information about Management and Operating Contractor first-tier subcontracts for reporting to the Small Business Administration.

“Transaction” means any contract, order, other agreement or modification thereof (other than one involving an employer-employee relationship) entered into by the Contractor acquiring supplies or services (including construction) required solely for performance of the prime contract.

(b) *Reporting.* The Contractor shall collect and report data via MOSRC necessary for DOE to meet its agency reporting requirements, as determined by the Small Business Administration, in accordance with the most recent reporting instructions at <https://energy.gov/management/downloads/mosrc-reporting-instructions>. The Contractor shall report first-tier subcontract data in MOSRC. Classified subcontracts shall not be reported. Subcontracts with Controlled Unclassified Information marking shall not be reported if restricted by its category. Contact your Contracting Officer if uncertain of information reporting requirements. The MOSRC reporting requirement does not replace any other reporting requirements (e.g. the Electronic Subcontracting Reporting System or the FFATA Subcontracting Reporting System).

APPENDIX A

ADVANCE UNDERSTANDING ON HUMAN RESOURCES

**Applicable to the Operations of
Brookhaven National Laboratory**

BROOKHAVEN NATIONAL LABORATORY

ADVANCE UNDERSTANDING ON HUMAN RESOURCES

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SECTION I - INTRODUCTION

- (a) This Advance Understanding is intended to document the principles and measures for evaluation of the Contractor's Human Resources Management (CHRM) programs and other items of allowable personnel costs and related expenses not specifically addressed elsewhere under this contract.
- (b) The Contractor shall select, manage, and direct its work force and apply its human resource policies in general conformity with its private operations and/or industrial practices insofar as they are consistent with 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. Any programs or policies initiated for corporate application, permanently or for a finite period, that will impact staffing levels or compensation costs (i.e., furloughs or salary cuts) will not be applicable to Laboratory employees or employees otherwise funded through this contract, without prior approval of the Contracting Officer.
- (c) The Laboratory's 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 Human Resources programs. The Contractor shall use effective management review procedures and internal controls to assure compliance with the FAR and DEAR as well as to ensure that the cost limitation set forth herein are not exceeded, and that areas which require prior approval of the DOE Contracting Officer or designated representative are reviewed and approved prior to incurrence of costs.
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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 - COMPENSATION

(a) Salary Increases.

- (1) An administrative stipend 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 sum of stipend and base salary shall not exceed the maximum salary of the higher level position. The Associate Laboratory Director for Human Resources' approval, at least, is required for all stipends. The Laboratory Director must authorize administrative stipends that exceed 15% of the appointee's annual base salary. The entire amount of the stipend shall be removed when the employee reverts back to their original position. All stipends shall be reported annually to the Contracting Officer.
- (2) Notwithstanding any other term or condition set forth in this Contract, the Contracting Officer's approval of compensation actions pursuant to Clause H.21, Employee Compensation Pay and Benefits, 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 maximum compensation reimbursement level, per the Bipartisan Budget Act of 2013 (BBA), Section 702, *Limitation on Allowable Government Contractor Compensation Costs*.

(b) Compensation Increase Plan (CIP).

- (1) The Contractor shall submit the CIP proposal not later than 60 days prior to the start of the new salary cycle.
- (2) In order to pay "on-market-on-average," in the calculation of market position, Laboratory salary data shall be matched to survey data as of the midpoint of the salary cycle (i.e., July 1 for a 1/1-12/31 salary cycle).
- (3) The CIP shall be expressed as a percentage of the reimbursed base payroll for the end of the preceding salary cycle (i.e., the base payroll for 12/31 for a 1/1-12/31 salary cycle)

(c) Payment of Joint Appointees and Seconded Individuals.

- (1) Joint Appointees and Seconded Individuals shall be paid at the salary and fringe benefit rates established by the home institution, for the percentage of time worked at the host institution.

- (2) The contractor shall provide a quarterly report of Joint Appointees and Seconded Individuals in a format approved by the Contracting Officer.

SECTION III - ANCILLARY PAY COMPONENTS

- (a) Premium Pay.
The Contractor is authorized to provide shift differentials and other premium pay, reporting allowances, meal allowances, and hazardous duty pay, as documented in a Contracting Officer-approved policy.
- (b) Extended Work Week.
When deemed essential to the performance of work under this contract, an extended work week may be established at the Laboratory or any portion thereof.
- (c) 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.
- (d) Foreign Travel.
Allowances payable for official travel in foreign areas will be at rates established by the Secretary of State.

SECTION IV - PAYMENTS ON TERMINATION OF EMPLOYMENT

- (a) Sick Leave. The payment of accumulated sick leave upon termination is unallowable unless provided in a Contractor's written policy where the Contracting Officer has granted prior approval.
- (b) Vacation. The Contractor is authorized to pay for accumulated vacation upon termination at the rate in effect as of the date of termination, including any shift differential.
- (c) Termination for Administrative Convenience.

An employee dismissed for the administrative convenience of the Laboratory may in appropriate circumstances be given a termination payment of two weeks' pay. An individual employee may be considered for other termination pay for other administrative reasons with the approval of the Director and the Contracting Officer.

SECTION V - LABOR RELATIONS

(a) 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.

(b) Collective Bargaining Agreements.

The Contractor shall provide copies of collective bargaining agreements to the Contracting Officer as they are ratified or modified.

(c) Bargaining Unit Activity.

Pay for absences from work by employees acting in the capacity of union officers, union stewards and committee members for time spent in handling grievances, negotiating with the Laboratory, and serving on labor management (Laboratory) committees, are allowable.

SECTION VI - STAFF SETTLEMENT COSTS

- (a) Staff Settlement Costs - The Contractor is authorized to resolve claims settlements up to \$25,000 without the advance approval of the Contracting Officer. Workers' compensation claims settlements shall be in accordance with Clause H.25, Workers' Compensation Insurance.

SECTION VII - PROGRAMS INVOLVING EMPLOYEE ABSENCE FROM THE WORKPLACE

(a) Paid Leave.

The Laboratory will provide a reasonable and cost effective paid leave program in accordance with Contracting Officer-approved programs.

(b) Sabbaticals/Temporary Assignments of Laboratory Employees to Other Institutions for Teaching and Research.

The Contractor shall be reimbursed for expenditures consistent with Contracting Officer approved Laboratory policy arising out of an approved employee assignment to another institution for teaching and/or research if the assignment does not exceed one year. However, DOE requires thirty (30) calendar days prior written notice.

(c) Military Leave.

Military leave and associated pay is authorized in accordance with Contracting Officer-approved policies, and/or State or Federal law.

(d) 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.

(e) Temporary Domestic Assignment Allowances.

Temporary domestic assignment allowances shall be consistent with AL 2013-01 dated October 18, 2012 entitled "Contractor Domestic Extended Personnel Assignments," which may be revised from time to time, and Contractor policy consistent with the aforementioned AL.

SECTION VIII - EMPLOYEE TRAINING, EDUCATION AND DEVELOPMENT

(a) 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 field.

(2) Education.

(A) The Laboratory may approve and support educational courses taken by employees which serve to improve efficiency and productivity of Laboratory operations, increase needed skills, or prepare employees for increased responsibilities.

(B) 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 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.

SECTION IX - EMPLOYEE PROGRAMS

(a) Awards.

The contractor may only expend up to an amount previously approved by the Contracting Officer. The contractor may expend an amount not to exceed 1.5% (0.015) of the Laboratory's January 1 reimbursed base payroll for the awards identified under (1), (2), and (3) below:

(1) Service/Retirement/Non-Performance awards.

The contractor is authorized to provide monetary or non-monetary recognition for achievements not based on performance. Awards may include, for example, Length of Service/Retirement Recognition; Safety Awards; Patent Awards; Suggestion Program.

(2) 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. Awards may be provided to employees or groups of employees in the form of cash. Additionally, noteworthy achievements and special efforts may be recognized by the presentation of plaques, certificates, and memorabilia.

(3) Performance Incentives and Other Non-Base Compensation Programs.

The Contractor may expend non-base compensation amounts in payments to employees in accord with programs submitted to and approved by the DOE Contracting Officer, including, but not limited to, senior management incentives, project incentives, strategic skill stipends, and lump sum amounts in lieu of salary increases. If the contractor deviates from approved program parameters, the contractor shall seek prior approval from the Contracting Officer.

(b) Cost of Health Services.

The contractor shall be reimbursed for the costs of operating a Health Unit for Laboratory employees, including but not limited to the following: Pre-employment physicals and other medical examinations required to meet Laboratory employment requirements, medical care for occupational injuries and to provide relief for minor physical complaints of employees while at the Laboratory, and health examinations provided as a health service for employees.

(c) 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. Profits from group buying services operated for the benefit of all employees may be used to assist in the support of the recreation program. 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, alcohol, lodging, rentals, transportation and gratuities.
- (2) Wellness program. Costs of a Wellness Program to promote employee health and fitness are allowable.
- (3) Employee Assistance Program. The contractor shall:
 - (A) 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;
 - (B) Submit for approval by the Contracting Officer any changes to the Employee Assistance Program implementation plan;
 - (C) 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 newsletter, handbooks and other employee communication media designed to effectuate better employee relations and understanding of Appendix A and current employment regulations shall be reimbursed.

(5) Lectureship Program.

The Laboratory is authorized to maintain a Lectureship Program under which distinguished scientists, and other experts on such subjects as diversity and leadership, are invited to the Laboratory to deliver a program, and to be available to members of the staff for discussion of such subjects. Specific programs include, but are not limited to, the BSA Distinguished Lectureship Program, the Pegram Lectureship Program, and the Brookhaven Women in Science Lectureship Program.

The lecturer may be paid travel expenses in accordance with DOE travel reimbursement requirements and be given, without charge, the use of an on-site apartment. Lecture fees or honorariums provided to a lecturer that exceeds \$5,000 for any single lecture event or total lectureship costs (including all fees, honorariums and travel expenses) that will exceed \$100,000 in any calendar year require Contracting Officer approval.

(6) Goldhaber Fellowship Program.

The Contractor can incur costs associated with participation in the Goldhaber Fellowship program to qualified PH.D candidates for independent research at the frontiers of their fields. Costs associated with the program shall not exceed \$250,000 in any given fiscal year. If cost exceeds this threshold, Contracting Officer review is required. The \$250,000 threshold is defined as the difference between the standard rate for a Research Associate and the Goldhaber Fellowship rate.

SECTION X - COSTS OF RECRUITING PERSONNEL

- (a) The Contractor may incur costs for the recruitment of personnel (except as expressly prohibited in FAR Part 31), as follows:
- (1) Costs of advertising and agency and consultant fees.
 - (2) Recruiting Expenses - The Laboratory may reimburse, consistent with other 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, for spouses or representatives of academic institutions, professional societies and other scientific organizations and incidental expenses incurred in recruiting.
 - (3) Costs associated with pre-employment screening, including pre- placement physical examination, shall be allowable.

(b) Recruitment/Retention Tools.

- (1) The Contractor may pay a sign-on bonus of up to \$20,000, to recruit employees with critical skills.
- (2) An annual retention bonus of up to 20% of an employee's base salary is authorized to retain employees with critical skills. The retention incentive shall not exceed 30% of the employee's salary when combined with other variable pay components in a year. Contracting Officer approval is required for retention bonuses exceeding a period of 5 years.
- (3) The Contractor is authorized to provide a critical skills new hire or current employee a base salary that exceeds the salary range of the grade level, which may not exceed 20% of the salary range maximum. The Contractor may implement up to two extraordinary base salary actions for critical skills in one calendar year. Contracting Officer approval is required if BSA intends to offer an extraordinary base salary that could result in the organization exceeding this threshold if the action is implemented in the same calendar year.
- (4) The Contractor is authorized to provide service credit of up to 10 years to critical skill new-hires for previous relevant experience at another DOE facility or external organization. Credited service under a critical skills policy may be used to determine accrual rate for vacation benefits.
- (5) Costs associated with an Employee Referral Award Program (ERAP). The ERAP program was instituted in order to reward employees who refer successful candidates for employment. For certain specified jobs, BNL employees may recommend applicants to the HR Division and subsequently receive a monetary award if the referral is hired. An award of \$1,000 will be made for referral and hire for an exempt level position; \$500 for referral for a non-exempt hire. Payment will be made after the referred candidate has completed 90 days of employment. Referring employee must still be at the Laboratory to be eligible.

SECTION XI - REDUCTIONS IN CONTRACTOR EMPLOYMENT

Reductions in employment will be conducted in accordance with the contractor's Contracting Officer approved 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 | 100+ | CO Notification |
| Involuntary | 100+ | CO Approval |

- (A) Notifications will be consistent with the following parameters:
- a. In accordance with approved laboratory/contractor policies;
 - b. No enhanced benefits (severance or pension);
 - c. No backfilling (internally or externally) or re-employment of employees after severance is paid;
 - d. A business case is submitted 5 business days in advance of notification date that includes maximum number of voluntary reductions, maximum dollars, positions/skills impacted; reasons reductions are needed, copy of self-select waivers, and communication plan; and
 - e. Voluntary reductions are offered to all eligible employees in an operational unit (i.e. organization, direct/indirect category, etc.).
- (B) Actions requiring approval will additionally require a workforce restructuring plan prepared in accordance with DOE policy.
- (C) Approval actions shall be submitted a minimum of 10 business days prior to announcement to employees.
- (D) A diversity analysis shall be submitted a minimum of 10 business days prior to notification to individual impacted employees if at the end of the action, or any significant phase of it, 100 or more employees will be involuntarily separated in a rolling 12-month period.
- (E) 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 or action 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.

- (A) If DOE approval is not required, severance may be paid to an employee who volunteers for layoff or retirement if contractor management has approved the restructuring action and the termination results in the retention of an employee who otherwise would be laid off.
- (B) Severance is not payable to an employee who volunteers for layoff or retirement if the termination is not associated with a restructuring action approved and initiated by contractor management.
- (3) Severance Pay Benefit. As documented in a Contracting Officer-approved policy.
- (4) Pay in Lieu of Notice. Any employee who is involuntarily separated due to a work force restructuring may be given, up to two weeks, pay in lieu of the required minimum written notice of termination. Pay in lieu of notice exceeding this amount requires prior Contracting Officer approval. Accumulated vacation credit is also paid.
- (5) 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) Displaced Worker Medical Benefit.

Contractor employees who separate from employment voluntarily or involuntarily (other than for cause) and who were eligible for medical insurance coverage under the contractor's plan at the time of separation from employment are eligible for medical coverage under the DOE Displaced Workers' Medical Benefits Program, provided they are not eligible for coverage under another plan, e.g. another employer's group health plan, the contractor's retiree medical plan, a spouse's medical plan, or Medicare, based on the following schedule:

- (1) First Year: The contractor's contribution for an active employee.
- (2) Second Year: One half of the contractor's Cobra premium.
- (3) Third and Subsequent Years: Reasonable administrative costs that exceed the two percent administrative fee paid by the displaced worker.

SECTION XII - 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.

The Laboratory is authorized to provide a dependent care benefit program as a fringe benefit documented in a Contracting Officer-approved policy.

If applicable, the Contractor shall sub-contract the operation of a dependent care center. Support costs for labor, materials, and supplies expended for the operation of a dependent care facility are unallowable. The facility must be for the exclusive use of Laboratory employees. Expense items such as utilities, maintenance, food services, medical services, or supplies already used in support of site operations and readily available are allowable. The cost of meals shall not be allowable.

(c) Adoption Assistance

The Laboratory may reimburse employees up to \$5,000 for costs associated with the adoption of an unrelated minor child. If both of the adoptive parents are employees, up to \$10,000 may be reimbursed. Reimbursable costs may include attorney fees, agency fees, court costs, transportation costs and medical costs.