

PART I – THE SCHEDULE

SECTION H

SPECIAL CONTRACT REQUIREMENTS

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H.1 DOE-H-1001 OMBUDSMAN

- (a) An ombudsman has been appointed to hear and facilitate the resolution of concerns from Offerors, potential Offerors, and contractors during the preaward and postaward phases of this acquisition. When requested, the ombudsman will maintain strict confidentiality as to the source of the concern. The existence of the ombudsman is not to diminish the authority of the Contracting Officer, the Source Evaluation Board, or the selection official. Further, the ombudsman does not participate in the evaluation of proposals, the source selection process, or the adjudication of formal contract disputes. Therefore, before consulting with an ombudsman, interested parties must first address their concerns, issues, disagreements, and/or recommendations to the Contracting Officer for resolution.
- (b) If resolution cannot be made by the Contracting Officer, interested parties may contact the installation ombudsman, Melissa D. Rider, Acquisition and Project Management, EM-51/Forrestal Building U.S. Department of Energy 1000 Independence Ave., SW Washington, D.C. 20585 Phone: 202-586-5821, E-mail: melissa.rider@em.doe.gov.

Concerns, issues, disagreements, and recommendations which cannot be resolved at the Contracting Activity may be referred to the DOE ombudsman, Melissa D. Rider, Phone: 202-586-5821 E-mail: melissa.rider@em.doe.gov.

Do not contact the ombudsman to request copies of the solicitation, verify offer due date, or clarify technical requirements. Such inquiries shall be directed to the Contracting Officer or as specified elsewhere in this document.

(End of clause)

H.2 DOE-H-1024 ALTERNATIVE DISPUTE RESOLUTION (ADR)

- (a) The DOE and the Contractor both recognize that methods for fair and efficient resolution of significant disputes are essential to the successful and timely achievement of critical milestones and completion of all Contract requirements. Accordingly, the parties agree that in the event of a dispute to jointly select a 'standing neutral.' The standing neutral will be available to help resolve disputes as they arise. Such standing neutral can be an individual, a board comprised of three independent experts, or a company with specific expertise in the Contract area. If a standing neutral cannot be agreed upon, the DOE Office of Dispute Resolution will make a selection. Specific joint ADR processes shall be developed.
- (b) The parties agree the following provision may be invoked for significant disputes upon mutual agreement of the DOE and the Contractor:
 - (1) DOE and the Contractor shall use their best efforts to informally resolve any dispute, claim, question, or disagreement by consulting and negotiating with each

other in good faith, recognizing their mutual interests, and attempting to reach a just and equitable solution satisfactory to both parties. If any agreement cannot be reached through informal negotiations within 30 days after the start of negotiations, then such disagreement shall be referred to the standing neutral, pursuant to the jointly-developed ADR procedures.

- (2) The standing neutral will not render a decision, but will assist the parties in reaching a mutually satisfactory agreement. In the event the parties are unable after 30 days to reach such an agreement, either party may request, and the standing neutral will render, a non-binding advisory opinion. Such opinion shall not be admissible in evidence in any subsequent proceedings.

- (c) If one party to this Contract requests the use of the process set forth in Paragraphs b(1) and b(2) of this clause and the other party disagrees, the party disagreeing must express its position in writing to the other party. On any such occasion, if the party requesting the above process wishes to file a claim they may precede in accordance with Section I, FAR 52.233-1 Disputes or FAR 52.233-1 Disputes Alternate I.

(End of clause)

H.3 DOE-H-1025 CONTRACTOR INTERFACE WITH OTHER CONTRACTORS AND/OR GOVERNMENT EMPLOYEES

The Government may award contracts for onsite work or services to additional contractors. The Contractor shall cooperate fully with all other on site DOE Contractors, and with Government employees, and carefully fit its own work to such other work as may be directed by the Contracting Officer or a duly authorized representative. The Contractor shall not commit or permit any act which will interfere with the performance of work by any other Contractor or by a Government employee.

(End of clause)

H.4 DOE-H-1040 LOBBYING RESTRICTIONS (APPROPRIATIONS ACT 2013)

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

(End of clause)

H.5 DOE-H-1048 SUSTAINABLE ACQUISITION UNDER DOE SERVICE CONTRACTS MAY 2011 (TAILORED)

Pursuant to Executive Orders 13423, Strengthening Federal Environmental, Energy and Transportation Management, and 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy is committed to managing its facilities in a manner that will promote the natural environment and protect the health and wellbeing of its Federal employees and contractor service providers. As a service provider to DOE you are urged to assist us in our efforts. Sustainable acquisition or environmentally preferable contracting has several interacting initiatives. Among the initiatives are the following:

Alternative Fueled Vehicles and Alternative Fuels
Biobased Content Products (USDA Designated Products)
Energy Efficient Products
Non-Ozone Depleting Alternative Products
Recycled Content Products (EPA Designated Products)
Water Efficient Products (EPA WaterSense Labeled Products)

You should familiarize yourself with these information resources:

Recycled Products are described at <http://www.epa.gov/cpg>
Biobased Products are described at <http://www.biopreferred.gov/>
Energy efficient products are at <http://www.energystar.gov/products> for Energy Star products and FEMP designated products are at <http://energy.gov/eere/femp/energy-efficient-product-procurement>
Environmentally Preferable Computers are at <http://www.epeat.net>
Non-Ozone Depleting Alternative Products at <http://www.epa.gov/ozone/strathome.html>
Water efficient plumbing fixtures at <http://epa.gov/watersense>

In the course of providing services at the DOE site, if your services necessitate the acquisition of any of these types of products, it is expected that you will acquire the sustainable, environmentally preferable models unless the product is not available competitively within a reasonable time, at a reasonable price, is not life cycle cost efficient in the case of energy consuming products, or does not meet reasonable performance standards. While there is no formal reporting, DOE prepares a sustainable acquisition annual report and you may be asked to share information for our report.

H.6 KEY PERSONNEL

- a. The personnel listed below or elsewhere in this contract are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) Notify the Contracting Officer (CO) within 30 days or as soon as practicable; (2) submit justification (including proposed personnel) in sufficient detail to permit evaluation of the impact on this Contract; and (3) obtain the Contracting Officer's written approval.

- b. The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.
- c. Key personnel for services are as follows and will be inserted in below table from successful Offeror upon award:

<u>Name</u>	<u>Title</u>
<u>Phil Valdens</u>	<u>President-Account Management – DOE Team</u>
<u>Patty Hicks</u>	<u>Claims Supv.-Program Mgr-DOE Team (WA Certified)</u>
<u>Lesley Hull</u>	<u>Sr. Claim Rep.-DOE Team (WA Certified)</u>
<u>Julie Haakenson</u>	<u>Sr. Claim Rep.-DOE Team</u>
<u>Desiree Rust</u>	<u>Claims/Administrative Asst.- DOE</u>
<u>Jon Manthos</u>	<u>RN- Nurse Case Manager – DOE Team</u>

H.7 ASSIGNMENT OF THIS CONTRACT

DOE reserves the right to assign this Contract to any Federal agency or onsite contractor for contract administration. The rights and obligations of the Contractor shall not be adversely affected in any material respect as a result of such assignment. Written notice will be provided to the Contractor if an assignment is made. No claim for additional costs will be considered by reason of any assignment under this provision.

H.8 DOE-H-1069 TRANSITION TO FOLLOW-ON CONTRACT (JULY 2011) (TAILORED)

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

- (a) Within fifteen (15) days after contract award, the Contractor and the outgoing contractor shall jointly prepare a detailed and comprehensive mutually agreed upon plan for the phase-out and phase-in of operations. This plan shall specify a training and orientation program to cover each phase of the scope of work covered by the contract. After completion the outgoing contractor will maintain full responsibility for such work until assumption thereof by the Contractor. Execution of the proposed plan or any part thereof shall be accomplished in accordance with the Contracting Officer's direction and approval.
- (b) At the expiration of the contract term or any earlier termination thereof, the Contractor shall cooperate with a successor contractor or the Government by allowing its employees to interview for possible employment. For those employees who accept employment with the successor contractor, such employees shall be released in coordinated manner with the successor contractor. The Contractor shall cooperate with the successor contractor and Government

with regard to the termination or transfer arrangements for such employees to assure maximum protection of employee service credits and fringe benefits.

(c) This clause shall apply to subcontracts as approved by the Contracting Officer.

H.9 DOE-H-1079 MANDATORY CHANGE ORDER ACCOUNTING

- (a) In accordance with FAR 52.243-6, the Contractor must establish change order accounting for each change or series of related changes whose estimated cost exceeds \$100,000.
- (b) The Government has no obligation under this clause or any other term or condition of this contract to remind the Contractor of its obligations under this clause. The Government may or may not, for example, refer to this clause when issuing change orders.
- (c) If the Contractor separately identifies costs in its invoices that pertain to the changed work, the Contractor may invoice costs for both changed work and other work in the same invoice.
- (d) If the Contractor fails to provide an adequate, auditable definitization proposal within 120 days of the Contracting Officer's request for such proposal, the Government may consider some or all of the associated bid and proposal costs to be unallowable.
- (e) If the Contractor fails to comply fully with the requirements of this clause, the Government may reflect the Contractor's failure in its-
 - (1) determination of otherwise earned fee under the contract; and/or
 - (2) past performance evaluation of the Contractor's performance.

H.10 WORKERS' COMPENSATION LITIGATION AND CLAIMS SUPPORT

- a. Whenever necessary to effectively administer workers' compensation claims under this Contract, the Contractor may, with the prior written authorization of the Contracting Officer or COR, and shall, upon the written request of the Government, initiate and/or defend litigation against third parties, including proceedings before administrative agencies, in connection with workers' compensation claims administered under this contract.
- b. The Contractor shall give the Contracting Officer or COR immediate notice in writing of any action, including any proceeding before any administrative agency, filed regarding any workers' compensation claim administered by the Contractor in the performance of this Contract. Except as otherwise directed by the Contracting Officer, in writing, the Contractor shall furnish immediately to the Contracting Officer or COR copies of all pertinent papers received by the Contractor with respect

- to such action.
- c. If any workers' compensation suit or action is filed or any claim is made, the Contractor shall:
 1. Immediately notify the Contracting Officer and promptly furnish copies of all pertinent papers received;
 2. Authorize Government representatives to collaborate with, (i) in-house or approved outside counsel in settling or defending the claim, or (ii) counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage, unless precluded by the terms of the insurance contract; and,
 3. Authorize Government representatives to settle the claim or to defend or represent the Contractor in and/or to take charge of any litigation, if required by the DOE, when the liability is not insured or covered by bond. In any action against more than one DOE Contractor, the DOE may require the Contractor to be represented by common counsel. Counsel for the Contractor may, at the Contractor's expense, be associated with the DOE representatives in any such claim or litigation.
 - d. Prior to participating in settlement discussions or alternative dispute resolution regarding any workers' compensation litigation arising under this Contract, the Contractor shall seek written approval by the Contracting Officer. The Contractor's retained counsel shall provide justification for any proposed settlement or alternative dispute resolution via the Contractor to the Department of Energy Richland Operations Chief Counsel. Contractor shall provide the justification in sufficient time prior to the proposed settlement discussions or alternative dispute resolution to allow for Contracting Officer review and approval.
 - e. When any worker' compensation litigation arising under this Contract or the successor contract is settled, the Contractor must provide a copy of the executed settlement agreement within seven (7) days of execution.
 - f. The Contractor shall submit to the Contracting Officer, to the extent and in the manner directed by the Contracting Officer, any bonds and insurance maintained by the Contractor in connection with the performance of this contract.
 - g. The Contractor shall submit an engagement letter to retain legal counsel expected to provide \$25,000 or more in legal services for a particular matter and submit a copy of correspondence relating to the required elements below, including correspondence from retained legal counsel addressing any of the issues/required elements to the Contracting Officer prior to initiating any expense. The engagement letter must require retained legal counsel to assist the Contractor in complying with this clause. The required elements are as follows:

1. A process for review and documented approval of all billing by a Contractor representative, including the timing and scope of billing reviews.
2. A statement that provision of records to the Government is not intended to constitute a waiver of any applicable legal privilege, protection, or immunity with respect to disclosure of these records to third parties. (An exemption for specific records may be obtained where Contractors can demonstrate that a particular situation may provide grounds for a waiver.)
3. A requirement that the Contractor, DOE, and the Government Accountability Office, have the right upon request, at reasonable times and locations, to inspect, copy, and audit all records documenting billable fees and costs.
4. A statement that all records must be retained for a period of six (6) years and three (3) months after the final payment or after final case disposition, whichever is later.
5. The Contractor shall obtain the following information from the retained counsel:
 - a. Identification of all attorneys and staff who are assigned to the matter and the rate and basis of their compensation (i.e., hourly rates, fixed fees, contingency arrangement) and a process for obtaining approval of temporary adjustments in staffing levels or identified attorneys.
 - b. An initial assessment of the matter, along with a commitment to provide updates as necessary.
 - c. A description of billing procedures, including frequency of billing and billing statement format.
6. The Contractor shall obtain retained counsel's agreement to the following:
 - a. That in significant matters a staffing and resource plan for the conduct of the matter must be submitted by the retained legal counsel to the Contractor.
 - b. That alternative dispute resolution must be considered at as early a stage as possible where litigation is involved.
 - c. That retained counsel must comply with the cost guidelines included in this clause.
 - d. That professional conflicts of interest issues must be identified and addressed promptly.
- h. All costs determined to be allowable are reimbursable for actual costs only, with no overhead or surcharge adjustments. All costs covered by this clause are subject to

- audit by the DOE, its designated representative or the General Accounting Office. The standard for cost reasonableness determinations, one of the criteria for an allowability determination, is contained in the Federal Acquisition Regulation (FAR) 31.201–3. The FAR in full text is available at: <http://farsite.hill.af.mil/>.
- i. The following categories of costs are unallowable and the Contractor shall not be reimbursed:
 1. Specific categories of unallowable costs are contained in the cost principles at FAR Part 31 and Department of Energy Acquisition Regulation (DEAR) Part 931. See also 41 U.S.C. 256(e). The DEAR in full text is available at: <http://farsite.hill.af.mil/>.
 2. Costs incurred for entertainment or alcoholic beverages. See FAR 31.205–14 and 31.205–51 and 41 U.S.C. 256(e).
 3. Costs that are customarily or already included in billed hourly rates are not separately reimbursable.
 4. Interest charges that a Contractor incurs on any outstanding (unpaid) bills from retained legal counsel are not reimbursable.
 5. Costs for which the Contractor has failed to insure or to maintain insurance as required by law, this Contract, or by written direction of the Contracting Officer.
 - j. Fees are determined to be unreasonable as follows:
 1. Whether the lowest reasonably achievable fees or rates (including any currently available or negotiable discounts) were obtained from retained legal counsel;
 2. Whether lower rates from other firms providing comparable services were available;
 3. Whether alternative rate structures such as flat, contingent, and other innovative proposals, were considered;
 4. The complexity of the legal matter and the expertise of the law firm in this area; and
 5. The factors listed in the Legal Management Plan (LMP).
 - k. All invoices for legal services provided pursuant to this Contract shall be submitted to the COR for review and approval by the COR and DOE-RL legal counsel prior to payment.

1. An LMP must be delivered to the Contracting Officer within 60 days following contract award (reference Table F.3). The LMP is subject to the Contracting Officer's approval and will become Attachment J.4 to Section J. The approved LMP must include the following items:
 1. A description of the legal matters that may necessitate handling by retained legal counsel.
 2. A discussion of the factors the Contractor must consider in determining whether to handle a particular matter utilizing retained legal counsel.
 3. An outline of the factors the Contractor must consider in selecting retained legal counsel, including:
 - a. Competition;
 - b. Past performance and proficiency shown by previously retained counsel;
 - c. Particular expertise in a specific area of the law;
 - d. Familiarity with the Department's activity at the Hanford Site and the prevalent issues associated with facility history and current operations;
 - e. Location of retained legal counsel relative to:
 1. The Hanford Site,
 2. Any forum in which the matter will be processed, and
 3. Where a significant portion of the work will be performed;
 - f. Experience as an advocate in alternative dispute resolution procedures such as mediation;
 - g. Actual or potential conflicts of interest;
 - h. The means and rate of compensation (*e.g.*, hourly billing, fixed fee, blended fees, etc.), and
 - i. A description of:
 1. The system that the Contractor will use to review each case to determine whether and when alternative dispute resolution is appropriate;
 2. The role of in house counsel in cost management;

3. The Contractor's process for review and approval of invoices from outside law firms or consultants;
 4. The Contractor's strategy for interaction with, and supervision of, retained legal counsel;
 5. How appropriate interaction with the Contracting Officer and DOE-RL counsel will be ensured; and,
 6. The Contractor's corporate approach to legal decision making.
- j. Costs for the following require specific justification or advance written approval from the Contracting Officer to be considered for reimbursement:
1. Computers or general application software, or non-routine computerized databases specifically created for a particular matter;
 2. Charges for materials or non-attorney services exceeding \$5,000;
 3. Secretarial and support services, word processing, or temporary support personnel;
 4. Attendance by more than one person at a deposition, court hearing, interview or meeting;
 5. Expert witnesses and consultants;
 6. Trade publications, books, treatises, background materials, and other similar documents;
 7. Professional or educational seminars and conferences;
 8. Preparation of bills or time spent responding to questions about bills from either the Department or the Contractor;
 9. Food and beverages when the attorney or consultant is not on travel status and away from the home office;
 10. Pro hac vice admissions; and
 11. Time charged for law students' or interns' services.

k. Travel

1. Travel and related expenses must at a minimum comply with the restrictions set forth in 48 CFR 31.205–46, or 48 CFR (DEAR) 970.3102–05–46, as appropriate, to be reimbursable.
2. Travel time may be allowed at a full hourly rate for the portion of time during which retained legal counsel performs legal work for which it was retained; any remaining travel time shall be reimbursed at 50 percent of the full hourly rate, except that in no event will travel time spent working for other clients be allowable. Also, for long distance travel that could be completed by various methods of transportation, e.g., car, train, or plane, costs charged by retained legal counsel or any agent of retained legal counsel will be considered reasonable only if the individuals charge no more travel time than it would take to utilize the fastest mode of transportation that is cost-effective.

l. Invoice format:

Contractor Litigation and Legal Costs, Model Bill Certification and Format

1. Certification. Bills or invoices should contain a certification signed by a representative of the retained legal counsel to the effect that:

“Under penalty of law, [the representative] acknowledges the expectation that the bill will be paid by the Contractor and that the Contractor will be reimbursed by the Federal Government through the U.S. Department of Energy, and, based on personal knowledge and a good faith belief, certifies that the bill is truthful and accurate, and that the services and charges set forth herein comply with the terms of engagement and the policies set forth in the Department of Energy's regulation and guidance on Contractor legal management requirements, and that the costs and charges set forth herein are appropriate and related to representation of the client.”

2. Model Bill Format

FOR FEES					
Date of Service	Description of Service	Name or Initials of Attorney	Approved Rate	Time Charged	Amount (Rate * Time)
See Note 1					

FOR DISBURSEMENTS		
Date	Description of Disbursement	Amount
See Note 2		

Note 1—Description of Service:

All fees must be itemized and described in sufficient detail and specificity to reflect the purpose and nature of the work performed (*e.g.*, subject matter researched or discussed; names of participants of calls/meetings; type of documents reviewed).

Note 2—Description of Disbursement:

Description should be in sufficient detail to determine that the disbursement expense was in accordance with all applicable Department policies on reimbursement of Contractor legal costs and the terms of engagement between the Contractor and the retained legal counsel. The date the expense was incurred or disbursed should be listed rather than the date the expense was processed. The following should be itemized: copy charge (*i.e.*, number of pages times a maximum of 15 cents per page); fax charges (date, phone number and actual amount); overnight delivery (date and amount); electronic research (date and amount); extraordinary postage (*i.e.*, bulk or certified mail); court reporters; expert witness fees; filing fees; outside copying or binding charges; temporary help (assuming prior approval).

Note 3—Receipts:

Receipts for all expenses equal to or above \$75 must be attached.

H.11 CLAIM ADMINISTRATION PAYMENTS

The Contractor shall make payments from a letter of credit to administer the workers' compensation claims. Examples could include payments for time loss, independent medical examinations, permanent partial disability awards, outside counsel, vocational rehabilitation consultation, etc. The Contractor will not be required to provide funds to cover these payments. If, in the Contractor's judgment, the total amount of payments that will be disbursed from the account within the next 30 days will exceed the total funds available, the Contractor shall notify the Contracting Officer in writing. In no case will the Contractor issue checks in excess of the funds available.

H.12 INTERFACE WITH THE HANFORD SITE OCCUPATIONAL MEDICAL SERVICES PROVIDER

The Occupational Medical Services Provider for the Hanford Site may assist with case management services, nursing, vocational rehabilitation, work hardening, physical examinations, return-to-work determinations, first aid, and other occupational medical services. The Occupational Medical Services Provider may serve as the medical liaison between the Contractor, the employee, the employee's personal physician and the employer.

DOE directives and Orders require employees who experience lost time injuries or illnesses to receive a medical clearance evaluation through the Occupational Medical Services Provider prior to their return to work.

H.13 CERTIFICATIONS AND OTHER STATEMENTS OF THE OFFEROR

The Representations, Certifications, and Other Statements of the Offeror submitted with the offer for this contract are, by reference, hereby incorporated in and made a part of this contract.

H.14 FINES, PENALTIES AND ERRONEOUS PAYMENTS

- a. In the event DOE is assessed a fine or penalty by the State of Washington pursuant to the Revised Code of Washington (RCW) Title 51, or any other entity and DOE determines that the penalty was assessed because of action or inaction on the part of the Contractor, the Contractor shall be liable to DOE for the penalty amount.
- b. The Contractor shall be responsible and held liable for erroneous payments and overpayment caused by the Contractor. The Contractor will also be responsible and held liable if it causes DOE to make erroneous payments or overpayments.
- c. The Contractor shall off-set the amount of fines, penalties and erroneous payments against any amounts due. If there are no outstanding invoices, the Contractor shall reimburse DOE for the amount of the penalty. DOE will not reimburse the Contractor for fines or penalties imposed against the Contractor.