

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
COMPENSATION	Financial - Overpayment of labor rates	Possible	Low	Moderate	No	No	(a) Contractor Employee Compensation Plan. The Contractor shall submit by (fill –in, example: close of contract transition), a Contractor Employee Compensation Plan demonstrating how the Contractor will comply with the requirements of this Contract. The Contractor Employee Compensation Plan shall describe the Contractor’s policies regarding compensation, pensions and other benefits, and how these policies will support at reasonable cost the effective recruitment and retention of a highly skilled, motivated, and experienced workforce.	Keep current language for inclusion in new solicitations only. Language is not needed for contract extensions.	Page 1	
	Financial - Overpayment of labor rates	Possible	Low	Moderate	No	No	A description of the compensation program should include the following components; Philosophy and strategy for all pay delivery programs. a. System for establishing a job worth hierarchy. b. Method for relating internal job worth hierarchy to external market. c. System that links individual and/or group performance to compensation decisions. d. Method for planning and monitoring the expenditure of funds. e. Method for ensuring compliance with applicable laws and regulations. f. System for communicating the programs to employees. g. System for internal controls and self-assessment. h. 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.  DOE-approved standards (e.g., set forth in an advance understanding or appendix), if any, shall be applied to the Total Compensation System.	Maintain language in the contract to ensure contractor is informed of what constitutes DOE approved standards.	Page 1	Page IV-3
	Financial - Overpayment of labor rates	Possible	Medium	Significant	No	No	(b) Total Compensation System. <del>The Contractor shall develop, implement and maintain formal policies, practices and procedures to be used in the administration of its compensation system including a compensation system Self Assessment Plan consistent with FAR 31.205-6 and DEAR 970.3102-05-6; “Compensation for Personal Services” (Total Compensation System). DOE approved standards (e.g., set forth in an advance understanding or appendix), if any, shall be applied to the Total Compensation System.</del> The Contractor’s Total Compensation System shall meet the tests of allowability established by and in accordance with FAR 31.205-6 and DEAR 970.3102-05-6, be fully documented, consistently applied, and acceptable to the Contracting Officer. Costs incurred in implementing the Total Compensation System shall be consistent with the Contractor’s documented Contractor Employee Compensation Plan as approved by the Contracting Officer.	Only the following language is needed to close a gap with FAR and DEAR: The contractor's total compensation system shall be fully documented, consistently applied, and acceptable to the contracting officer.	Page 2	
	Financial - Overpayment of labor rates	Unlikely	Low	Minor	Yes	No	(c) Appraisals of Contractor Performance. <del>DOE will conduct periodic appraisals of Contractor performance with respect to Total Compensation System implementation. Such appraisals will be conducted through either DOE validation of the contractor’s performance self-assessment of its Total Compensation System or third party expert review.</del>	Eliminate DOE governance language	Page 2	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of labor rates	Likely	Medium	Significant	No	No	(d) 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 by 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) An annual report of contractor expenditure for Employee Supplemental Compensation through the Department Workforce Information System Compensation and Benefits Module no later than March 1 of each year; and <del>(4) a performance self-assessment of the Total Compensation System to include an evaluation of total benefits using the employee bernal and cost survey comparison analysis.</del>	Keep current language, except for last sentence which is duplicative.	Page 2	
	Financial - Overpayment of labor rates	Likely	Medium	Significant	(ii) - No	(ii) - No	(e) Pay and Benefits Programs. (3)(A) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract: <del>(i) Any additional compensation system self-assessment data requested by Contracting Officer that may be needed to validate and approved the total compensation system;</del> (ii) Any proposed major compensation program design changes prior to implementation.	Eliminate subparagraph i as it is duplicative. Keep subparagraph ii as the risk level is significant.	Page 4	
	Financial - Overpayment of labor rates	Likely	Medium	Significant	No	No	(e)(3)(A)(iii) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract: (iii) An Annual Compensation Increase Plan (CIP). The Compensation Increase Plan (CIP) should include the following components and data: (1) Comparison of average pay to market average pay. (2) Information regarding surveys used for comparison. (3) Aging factors used for escalating survey data and supporting information. (4) Projection of escalation in the market and supporting information. (5) Information to support proposed structure adjustments, if any. (6) Analysis to support special adjustments. (7) Funding requests for each pay structure to include breakouts of merit, promotions, variable pay, special adjustments, and structure movement. (a) The proposed plan totals shall be expressed as a percentage of the payroll for the end of the previous plan year. (b) 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. (c) Specific 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. (d) 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). (8) A discussion of the impact of budget and business constraints on the CIP amount. (9) Comparison of pay to relevant factors other than market average pay.	Keep current language in DOE contracts.	Page 4	Page IV-3

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of labor rates	Likely	Medium	Significant	No	No	(e)(3)(A)(iv) Individual compensation actions for the top contractor official (e.g., laboratory director/plant manager or equivalent and key personnel not included in the CIP). For those key personnel included in the CIP, DOE will approve salaries upon the initial contract award and when key personnel are replaced during the life of the contract. DOE will have access to all individual salary reimbursements. This access is provided for transparency; DOE will not approve individual salary actions (except as previously indicated).	Keep current language in DOE contracts.	Page 5	Page IV-1
	Financial - Overpayment of labor rates	Unlikely	Low	Minor	N/A	N/A	<del>(e)(3)(A) The Contractor shall submit the following to the Contracting Officer for a determination of cost allowability for reimbursement under the Contract:- (v) Any proposed establishment of an incentive compensation plan (variable pay plan/pay at risk). The plan, must be budget neutral and must contain: a. the design of the incentive compensation plan, the funding methodology, and linkage to contract performance measures; b. requirement for approval of incentive compensation plan design changes by the Contracting Officer prior to implementation; c. requirement for an annual approval, prior to the performance period, of the total dollar amount of the pool, the eligible positions, and contract performance goals; d. requirement for policy that provides a specific passover rate, i.e., percent of participants who will not receive an incentive; e. requirement for an annual summary report on distributions made under an Incentive Compensation Plan; and f. requirement for pay at risk.</del>	Eliminate duplicative language which is covered under (3)(A)(ii) on page 2. Also eliminating governance language.	\	Page IV-5
	Financial - Overpayment of labor rates	Possible	Low	Moderate	No	Yes	<del>Contractors shall submit to the Contracting Officer for approval the following documents: 7. Annually, an overtime control plan and semiannual Report on Overtime Use, if any of the following criteria are met: the contractor's overtime expenditures as a percent of payroll exceed the DOE contractor median overtime expenditures for the preceding calendar year plus two percent; the contractor's overtime as a percent of payroll exceeds the DOE contractor median overtime expenditures for the preceding calendar year and the contractor's policy permits payment of overtime for exempt employees earning greater than or equal to \$45,000 per annum; or the contractor's overtime as a percent of payroll exceeds the DOE contractor median overtime expenditures for the preceding calendar year and the contractor provides for overtime premium pay on any other basis than for hours worked in excess of 40 hours per week.</del>	Eliminate current language. Required in DEAR 970.5222-2 Overtime management.		Page IV-5
	Financial - Overpayment of labor rates	Possible	Low	Moderate	No	Yes	<del>a. The overtime control plan must strike a balance between use of other alternatives, including the hire of additional personnel in a workplace that is safe and promotes the health of employees. This plan must include: (1) the institutional overtime premium fund (maximum dollar amount) negotiated annually; (2) specific controls for casual overtime for non-exempt employees; (3) prohibition of casual overtime for exempt employees except as stipulated in an advance understanding; (4) an evaluation of alternatives to the use of overtime; and (5) a requirement for the Contracting Officer to approve any additional overtime premium funds or plan changes required for mission requirements not included in the approved plan.</del>	Eliminate current language. Required in DEAR 970.5222-2 Overtime management.		Page IV-5

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of labor rates	Possible	Low	Moderate	No	Yes	b. The semiannual Report on Overtime Use including: (1) total cost of overtime; (2) total cost of straight-time; (3) overtime cost as a percentage of straight-time cost; (4) total overtime hours; (5) total straight-time hours; and (6) overtime hours as a percentage of straight-time hours.	Eliminate current language. Required in DEAR 970.5222-2 Overtime management.		Page IV-6
BENEFITS	Financial - Overpayment of benefit costs	Unlikely	Medium	Moderate	No	Yes	(e) Pay and Benefit Programs. The Contractor shall establish pay and benefit programs for Incumbent Employees and Non-Incumbent Employees as defined in paragraphs (1) and (2) below; 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.	Eliminate current language as is overly prescriptive.	Page 3	
	Financial - Overpayment of labor rates and benefit costs	Possible	Low	Moderate	Yes	No	(e)(1) Incumbent Employees are the employees [(fill –in) who hold regular appointments or who are regular employees] of the incumbent contractor. (A) Pay. Subject to the Workforce Transition Clause, the Contractor shall provide equivalent base pay to Incumbent Employees as compared to pay provided by (fill-in name of the incumbent contractor ) for at least the first year of the term of the Contract. (B) Pension and Other Benefits. The Contractor shall provide a total package of benefits to Incumbent Employees comparable to that provided by [fill-in the company name of the previous incumbent contractor]. Comparability of the total benefit package shall be determined by the CO in his/her sole discretion. Incumbent employees shall remain in their existing pension plans (or comparable successor plans if continuation of the existing plans is not practicable) pursuant to pension plan eligibility requirements and applicable law.	Keep current language in DOE contracts.	Page 3	
	Financial - Overpayment of labor rates and benefit costs	Possible	Low	Moderate	Yes	No	(e)(2) Non-Incumbent Employees are new hires, i.e., employees other than Incumbent Employees who are hired by the Contractor after date of award. All Non-Incumbent Employees shall receive a total pay and benefits package that provides for market-based retirement and medical benefit plans that are competitive with the industry from which the Contractor recruits its employees and in accordance with Contract requirements.	Keep current language in DOE contracts.	Page 3	
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	No	Yes	Contractors shall develop and implement welfare benefit programs that meet the tests of allowability and reasonableness established by Federal Acquisition Regulation 31.205-6 and Department of Energy Acquisition Regulation 970.3102-2, COMPENSATION FOR PERSONAL SERVICES.	Eliminate duplicative language which is currently reflected in the FAR and DEAR.		Page V-5

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Likely	Medium	Significant	No	No	Pension and Other Benefit Programs. No presumption of allowability will exist when the contractor implements a new benefit plan or make changes to existing benefit plans for <del>either Incumbent Employees or Non-Incumbent Employees</del> until the contracting officer makes a determination of cost allowability for reimbursement for new or changed benefit plans. 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.	Keep current language in DOE contracts. Eliminate reference distinguishing incumbent from non incumbent as is overly prescriptive.	Page 5	
	Financial - Overpayment of benefit costs	Likely	Medium	Significant	No	No	(f) Pension and Other Benefit Programs. (2) Cost reimbursement for <del>Incumbent Employee and Non-Incumbent</del> 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 as part of its performance self assessment described in paragraph (d) (4) above and in calculating the cost of benefits under existing benefit plans. 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) An Employee Benefits Value Study (Ben-Val), every two years for each benefit tier for Incumbent and Non Incumbent Employees benefits, which is an actuarial study of the relative value (RV) of the benefits programs offered by the Contractor to Incumbent and Non-Incumbent 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,	Frequency of Benval shall be every two years. The Under Secretary may authorize the Contracting Officer to reduce the frequency to every three years when deemed appropriate and the decision and rationale are documented. The Benval may also be used for analytical purposes to support development of a corrective action plan for cost studies which are used to mitigate financial risk.	Page 6	
	Financial - Overpayment of benefit costs	Likely	Medium	Significant	No	No	(f)(3)(B) An Employee Benefits Cost Study Comparison, annually for each benefit tier for <del>Incumbent and Non-Incumbent Employees</del> that analyzes the Contractor's employee benefits cost for <del>Incumbent and Non-Incumbent</del> 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.  NNSA Process: (f)(3)(B) An Employee Benefits Cost Study Comparison, annually each for <del>Incumbent and Non-Incumbent</del> Employees that analyzes the Contractor's employee benefits cost for <del>Incumbent and Non-Incumbent</del> 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.	Keep current language, but remove overly prescriptive reference to incumbent and non incumbent.	Page 6	Page V-5

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Likely	Medium	Significant	Yes	No	(4) When the net benefit value exceeds the comparator group by more than five percent, <del>when and if required by the contracting officer</del> , the Contractor shall submit a corrective action plan to the Contracting Officer for approval, unless waived 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, <del>when and if required by the Contracting Officer</del> , 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 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.	✓ Keep current language with minor modifications.	Page 6	Page V-5
	Financial - Overpayment of benefit costs	Likely	Medium	Significant	No	No	(f)(8) The Contractor may not terminate any benefit plan during the term of the Contract without the prior approval of the Contracting Officer in writing.	Keep current language in DOE contracts.	Page 7	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(f)(9) Cost reimbursement for 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.	Keep current language in DOE contracts.	Page 7	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	Yes	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). <del>(a) Have a claims management program that establishes specific guidelines and practices, and that ensures a regular review of program components. This program includes, but is not limited to: 1 providing the Contracting Officer with annual status reports on all claims reserves over \$25,000, as well as reserves established on all new claims; 2 conducting an annual review of all claims over \$25,000 in reserves and claims over 2 years old, regardless of reserve amount; 3 reviewing reserves under an insured program on all open claims at the end of each policy year but prior to the valuation of claims for the interim premium adjustment report to determine their appropriateness; 4 reviewing medical cost containment programs, such as managed care networks, where allowed by statutes; and 5 conducting a sample claims review of open and closed claims during the first 3 years of a contract period for both active and canceled policies with existing claims activity. A written report of the findings shall be submitted to the Contracting Officer.</del>	Keep current language in DOE contracts.	Page 16	Page V-6
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	No	Yes		Eliminate overly prescriptive language. It is unnecessary to specify the "how."		
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	No	Yes	<del>Contractors under insured plans shall review and verify the accuracy of interim premium adjustment reports and make payment of adjusted premium or request of credit from carrier.</del>	Eliminate current language.		Page V-7

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	No	Yes	<del>Contractors' workers compensation insurance policies shall contain the following provisions. 1 A provision excluding any claim on the part of the insurance company to be subrogated on payment of loss or otherwise to any claim against the United States. 2 A provision that in the event of cancellation or non-renewal by the insurance company, 60 days advance notice shall be given to the contractor, the Contracting Officer, and the Office of Contractor Human Resource Management. 3 A provision limiting the insurance company's right of inspection of the contractor's records and premises as necessary to comply with DOE's security requirements. 4 A provision for the right of assignment of the policy to DOE, with payment of all return premiums, premium refunds dividends, or other moneys due or to become due, to be payable to the Government. 5 Employer's liability coverage, except in cases where the contractor has an acceptable self insurance program. 6 Workers compensation and employer's liability coverage for its employees in those states that allow statutory immunity for certain types of employers (e.g., nonprofit educational institutions). 7 Voluntary Compensation Endorsement in states that do not automatically provide voluntary coverage. This allows for coverage of employees or volunteers who would not otherwise be covered for accidental injury (e.g., employees participating in an athletic event or volunteers at the work site). An additional amendment is necessary to extend Voluntary Compensation Coverage to occupational disease.</del>	Eliminate current language.		Page V-7
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	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.	Keep current language in DOE contracts.	Page 16	Page V-8
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	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.	Keep current language in DOE contracts.	Page 17	Page V-8
	Customer, Stakeholder, and Public Trust - Loss of trust and political concern.	Rare	Medium	Minor	No	Yes	<del>If Dependent Care Facilities are approved by the Contracting Officer, ensure the following non-discretionary elements that apply to contractor sponsored workplace or near-workplace Dependent Care Facilities are satisfied. (a) Workplace child-care centers or other facilities for children shall not be located at a DOE nuclear weapons complex or other hazardous materials site. (b) Dependent care benefit programs for contractor operated facilities must meet employee needs and management objectives based on a valid study of dependent care needs.</del>	Eliminate current language.		Page V-8

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of costs	Rare	Medium	Minor	No	Yes	Support costs associated with the operation of a contractor workplace or near workplace facility for exclusive use of DOE and contractor employees may include all or a portion of such expense items as utilities and maintenance, as well as food and medical services or supplies that are already being used in support of site operations and are readily available to additionally support the facility. Such use shall be approved by the contracting officer in advance. For the following costs to be considered allowable, capital construction of a facility must be validated and approved by the Contracting Officer. 1 Capital costs budgeted and accounted for in accordance with DOE requirements related to capital projects. If the results of the study indicate that dependent care needs can be adequately addressed through any option or combination of options other than a workplace or near workplace contractor- sponsored dependent care facility, any costs associated with the lease or purchase of such facility shall not be reimbursable. 3 The costs for labor, materials, and supplies expended for the operation of contractor workplace or near workplace dependent care facilities shall not be allowable under any circumstances. However, options for employees to finance such costs through contractor employee welfare benefits programs flexible spending accounts are subject to the requirements of this chapter as it relates to welfare benefits.	Eliminate current language.		Page V-8
	Financial- potential exposure to lawsuits	Rare	Medium	Minor	No	Yes	Any agreement between contractors and dependent care (program) provider organizations must ensure that contractors and the DOE are held harmless from liability. 1 Property damage liability and bodily injury liability insurance policies must be retained by the dependent care (program) provider organization in an amount appropriate for services provided. The contractors must also be insured under these policies. 2 Agreements between the contractors and dependent care (program) provider organizations must ensure that the provider organizations operate, maintain, and upgrade any proposed workplace dependent care facility in compliance with federal, state, and local policies, regulations, and requirements for environment, safety and health.	Eliminate current language.		Page V-9
PENSION PLANS	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(h) 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, for Incumbent Employees and retired plan participants, with responsibility for management and administration of the plans. The Contractor shall be responsible for maintaining the qualified status of those plans. 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.	Keep current language with modification to remove reference to incumbent employees and retired participants as is overly prescriptive.	Page 8	



Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Likely	Medium	Significant	No	No	Establishment and Maintenance of Pension Plan. <del>(1) For cost allocability and reimbursement purposes, any defined benefit (DB) or defined contribution (DC) pension plans established and/or implemented by the Contractor shall be maintained consistent with the requirements of the IRC and ERISA.</del> <del>(2) Contractor policies, practices, and procedures used in the administration of pension plans shall be consistent with applicable laws and regulations.</del> (3) Employees working for the Contractor shall only accrue credit for service under this Contract after the date of Contract award. (4) 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.	Eliminate sentences (1) and (2) as it is overly prescriptive. Keep sentences (3) and (4).	Page 7	
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	N/A	N/A	<del>(h)(3) 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.</del>	Eliminate current language as it is duplicative. See language on page 5 under "Pension and Other Benefit Programs."	Page 8	
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	N/A	N/A	<del>(h)(4) DOE approval is required for each newly adopted pension plan or for any changes to Commingled pension plans or Taft-Hartley pension plans.</del>	Eliminate current language as it is duplicative. See language on page 5 under "Pension and Other Benefit Programs."	Page 9	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	Yes	No	(h)(5) Each contractor pension plan shall be submitted to at least 1) a limited-scope audit annually and a full-scope audit every three years; or 2) a full scope audit annually, as required by ERISA Section 103 and 104, conducted by an outside independent organization and the resulting report, submitted to DOE.  NNSA Process: (h)(5) The contractor shall comply with requirements of ERISA Sections 103 and 104 for each of its employee benefit plans and shall provide copies of such required filings to DOE. Limited scope audits as permitted under ERISA Section 103(a)(3)(C) that are conducted by an independent qualified auditor that are members of the AICPA Employee Benefit Plan Audit Quality Center must be accompanied by a statement from the contractor stating that it has confirmed that the entity is qualified under ERISA section 103(a)(3)(C) to issue the certification and the authorized representative signing the certification is authorized to do so as well as copy of the actual certification from the issuing entity. Such limited scope audits may be submitted to the DOE 2 out of every 3 years with a full scope audit required at least every three years.	Revise language to require a limited scope audit annually and a full scope audit every three years.	Page 9	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(h)(6) For existing Commingled plans, the Contractor shall maintain and provide annual separate accounting of DOE liabilities and assets as for a Separate Plan.	Keep current language in DOE contracts.	Page 9	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(h)(7) For existing Commingled plans, the Contractor shall be liable for any shortfall in the plan assets caused by funding or events unrelated to DOE contracts.	Keep current language in DOE contracts.	Page 9	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(h)(8) The Contractor shall comply with the requirements of ERISA and any other applicable laws to the fullest extent practical, even if a specific pension plan is exempt from ERISA.	Keep current language except the ending phrase as it is overly prescriptive.	Page 9	
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	Yes	No	<del>(h)(9) Proposed pension plan changes will be evaluated by DOE, with approval/disapproval based on the merits of each proposed change, including but not limited to evaluation of the following: (A) Total compensation. (B) Pension benefit surveys published by the Bureau of Labor Statistics or other Contracting Officer approved broad-based national survey. (C) Retirement studies published by consulting firms, educational institutions, or policy groups. (D) Software models developed by qualified actuaries.</del>	Eliminate current language. Internal DOE governance language.	Page 9	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(h)(10) The Pension Management Plan <del>Human Resources Management Plan</del> shall include the following: (A) A Pension Management Plan (PMP) discussing the Contractor's plans for management and administration of all pension plans consistent with the terms of this contract. The PMP shall be updated and submitted to the Contracting Officer in draft annually no later than 45 days after the last day of the Plan year along with its draft actuarial valuation. (B) Within thirty (30) days after the date of the submission, appropriate Contractor representatives shall meet with the Contracting Officer to discuss the Contractor's proposed draft annual update of the PMP to specifically discuss any anticipated changes in the projected pension contributions from the prior year's contributions and any discrepancies between the actual contributions made for the most recent year preceding that meeting and the projected contributions for that year which the Contractor had submitted to the Contracting Officer the prior year. The annual revision of the PMP shall include:	Keep current language in DOE contracts.	Page 9	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(i) The Contractor's best projection of the contributions which it will be legally obligated to make to the pension plan(s), beginning with the required contributions for the coming fiscal year, based on the latest actuarial valuation, and continuing for the following four years. This estimate will be based upon compliance with all applicable legal requirements relating to the determination of contributions and upon the assumptions set out in the plan document(s). (ii) If the actuarial valuation submitted pursuant to the annual PMP update indicates that the sponsor of the pension plan must impose pension plan benefit restrictions, the Contractor shall provide the following information:	Keep current language in DOE contracts.	Page 10	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(aa) The type of benefit restriction that will take place, (bb) The number of Contractor employees that potentially could be impacted and the nature of the restriction (e.g., financial impact) by imposition of the required benefit restriction, and (cc) The amount of money that would need to be contributed to the pension plan to avoid legally required benefit restrictions.	Keep current language in DOE contracts.	Page 10	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(iii) A detailed discussion of how the Contractor intends to manage the pension plan(s) to maximize the contribution predictability (i.e. forecasting accuracy) and contain current and future costs, to include rationale for selection of all plan assumptions that determine the required contributions and which impact the level and predictability of required contributions. The Contractor is required to annually establish a long term (e.g. five year) plan that outlines the projected retirement plan costs, and any planned action steps to be taken to better manage predictability. The contractor must also share the following information with the Department during the meeting:	Keep current language in DOE contracts.	Page 10	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(aa) Strategy for achieving and maintaining fully-funded status of the plan(s) (bb) Investment policy statement for the plan, with any recent updates (cc) Results of recent asset liability studies (required to be preformed every 3 years or after a significant event) including rational for maintaining current asset allocation strategy. (dd) Comparison of budget projections submitted to the Department to actual contributions (ee) Any recent reports, findings, or recommendations provided by plan's investment consultant. (ff) Actuarial experience studies to set the plan's actuarial assumptions (required to be performed every 3-5 years)	Keep current language in DOE contracts.	Page 10	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(iv) An assessment to evaluate the effectiveness of the Contractor's pension plan(s) investment management/results. The assessment shall include at a minimum: a review and analysis of pension plan investment objectives; the strategies employed to achieve those objectives; the methods used to monitor execution of those strategies and the achievement of the investment objectives; and a comparative analysis of the objectives and performance of other comparable pension plans. The Contractor shall also identify its plans, if any, for revising any aspect of its pension plan management based on the results of the review.	Keep current language in DOE contracts.	Page 11	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(i) Reimbursement of Contractors for Contributions to Defined Benefit Pension Plans. (1) Contractors that sponsor single employer or multiple employer defined benefit pension plans will be reimbursed for the annual required minimum contributions under the Employee Retirement Income Security Act (ERISA), as amended by the Pension Protection Act (PPA) of 2006. Reimbursement above the annual minimum required contribution will require prior approval of the Contracting Officer. Reimbursement amounts will take into consideration all pre-funding balances and funding standard carryover balances.	Keep current language in DOE contracts.	Page 11	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(i)(2) Contractors that sponsor multi-employer DB pension plans will be reimbursed for pension contributions in the amounts necessary to ensure that the plans are funded to meet the annual minimum requirement under ERISA, as amended by the PPA. However, reimbursement for pension contributions above the annual minimum contribution required under ERISA, as amended by the PPA, will require prior approval of the Contracting Officer and will be considered on a case by case basis. Reimbursement amounts will take into consideration all pre-funding balances and funding standard carryover balances.	Keep current language in DOE contracts.	Page 11	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Possible	Low	Moderate	No	No	(j) 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.	Keep current language in DOE contracts.	Page 12	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(k) Changes to Pension Plans. At least sixty (60) days prior to the adoption of any changes to benefits, plan design, or funding methods for 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 to be incurred are consistent with the Contractor's documented Human Resources Management Plan and 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) an analysis of the impact of any proposed changes on actuarial accrued liabilities and costs; (C) 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; (D) the Summary Plan Description; and, (E) any such additional information as requested by the Contracting Officer.	Keep current language in DOE contracts.	Page 12	
	Financial - Overpayment of benefit costs	Unlikely	Low	Minor	N/A	N/A	<del>(k)(2) The Contractor shall obtain the advance written approval of the Contracting Officer for any non-statutory pension plan changes that may increase costs or liabilities, and any proposed special programs (including, but not limited to, plan loan features, employee contribution refunds, or ancillary benefits) and shall provide DOE with an analysis of the impact of such special programs and other changes on the actuarial accrued liabilities of the pension plan, and on relative benefit value, if applicable.</del>	Eliminate current language as it is duplicative. See language on page 5 under "Pension and Other Benefit Programs."	Page 13	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(l) Terminating Operations. When operations at a designated DOE facility are terminated and no further work is to occur under the prime contract, the following apply: (1) No further benefits for service shall accrue. (2) The Contractor shall provide a determination statement in its settlement proposal, defining and identifying all liabilities and assets attributable to the DOE contract.	Keep current language in DOE contracts.	Page 13	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(l)(3) The Contractor shall base its pension liabilities attributable to DOE contract work on the market value of annuities or lump sum payments or dispose of such liabilities through a competitive purchase of annuities or lump sum payouts. <del>Insurance companies bidding for such business shall satisfy Department of Labor requirements.</del>	Keep current language with modification to provide contractors with flexibility to provide lump sum payouts. The restriction against lump sum payouts does not mitigate financial risk. Also eliminate language requiring insurance companies to meet Department of Labor requirements. The DOL requirement is by law.	Page 13	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(l)(4) Assets shall be determined using the “accrual-basis market value” on the date of termination of operations.	Keep current language in DOE contracts.	Page 13	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(l)(5) DOE and the Contractor(s) shall establish an effective date for spinoff or plan termination. On the same day as the contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets. <del>The portfolio shall be rated no lower than Standard &amp; Poor's “AA.”</del>	Keep current language with minor modification to clarify requirement.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	DOE-H-1007 (a); If this Contract expires or terminates and DOE has awarded a contract under which the new contractor becomes a sponsor and assumes responsibility for management and administration of the pension or other benefit plans covering active or retired contractor employees with respect to service at [name of site or facility] (collectively, the “Plans”), the Contractor shall cooperate and transfer to the new contractor its responsibility for sponsorship, management and administration of the Plans consistent with direction from the Contracting Officer. If a Comingled plan is involved, the contractor shall: (1) spin off the DOE portion of any commingled plan used to cover employees working at the DOE facility into a separate plan. The new plan will normally provide benefits similar to those provided by the commingled plan and shall carry with it the DOE assets on an accrual basis market value, including DOE assets that have accrued in excess of DOE liabilities. (2) bargain in good faith with DOE or the successor contractor to determine the assumptions and methods for establishing the liabilities involved in a spinoff. DOE and the contractor(s) shall establish an effective date of spinoff. On the same day as the contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets. <del>The portfolio shall be rated no lower than Standard &amp; Poor's “AA.”</del>	Keep current language with minor modification to clarify requirement.	Page 18	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	DOE-H-1007 (b); If this contract expires or terminates and DOE has not awarded a contract to a new contractor under which the new contractor becomes a sponsor and assumes responsibility for management and administration of the plans...the contractor shall remain the sponsor of the plans in accordance with legal requirements.	Keep current language in DOE contracts.	Page 18	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m) Terminating Plans. (1) DOE contractors shall not terminate any pension plan (Commingled or site specific) without notifying the requesting Departmental approval at least 60 days prior to the scheduled date of plan termination.	Keep current language in DOE contracts.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m)(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. <del>Insurance companies bidding for this business shall satisfy Department of Labor standards.</del> Otherwise, the contractor shall apply the assumptions and procedures of the Pension Benefit Guaranty Corporation.	Keep current language with modification to provide contractor flexibility to provide lump sum payouts. Also eliminate requirement for insurance company to meet DOL requirements, which is not needed since it is law.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m)(3) Funds to be paid or transferred to any party as a result of settlements relating to pension plan termination or reassignment shall accrue interest from the effective date of termination or reassignment until the date of payment or transfer.	Keep current language in DOE contracts.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m)(4) If ERISA or IRC rules prevent a full transfer of excess DOE reimbursed assets from the terminated plan, the contractor shall pay any deficiency directly to DOE according to a schedule of payments to be negotiated by the parties.	Keep current language in DOE contracts.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m)(5) On the same day as the contractor notifies the IRS of the spinoff or plan termination, all plan assets assigned to a spun-off or terminating plan shall be placed in a low-risk liability matching portfolio until the successor trustee, or an insurance company, is able to assume stewardship of those assets. <del>The portfolio shall be rated no lower than Standard &amp; Poor's "AA."</del>	Keep current language with minor modification to clarify requirement.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m)(6) DOE liability to a commingled pension plan shall not exceed that portion which corresponds to DOE contract service. The DOE shall have no other liability to the plan, to the plan sponsor, or to the plan participants.	Keep current language in DOE contracts.	Page 14	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(m)(7) After all liabilities of the plan are satisfied, the contractor shall return to DOE an amount equaling the asset reversion from the plan termination and any earnings which accrue on that amount because of a delay in the payment to DOE. Such amount and such earnings shall be subject to DOE audit. To effect the purposes of this paragraph, DOE and the contractor may stipulate to a schedule of payments.	Keep current language in DOE contracts.	Page 15	
	Financial - Overpayment of benefit costs	Possible	Medium	Significant	No	No	(n) 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.	Keep current language in DOE contracts.	Page 15	

Attachment 2		Risk Assessment			Appropriate to accept risk?	Appropriate to transfer risk to Contractor?			Reference	
Subject Area	Risk	Probability	Impact	Risk Level	Yes/No	Yes/No	Control	Explanation	Model H-Clause	DOE O 350.1
							(o) 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.	Keep current language in DOE contracts.	Page 15	Page VI-9
							(5) Designated Contract. For purposes of this Order, a contract (other than a prime cost reimbursement contract for management and operation of a DOE facility) for which the Head of the Departmental Contracting Activity determines that advance pension understandings are necessary or where there is a continuing Departmental obligation to the pension plan. (6) 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. (7) Separate Accounting. Account records established and maintained within a commingled plan for assets and liabilities attributable to DOE contract service. NOTE: The assets so represented are not for the exclusive benefit of any one group of plan participants. (8) 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. (9) Spun-off Plan. A new plan which satisfies IRC Reg. 1.414 (l)-1 requirements for a single plan and which is created by separating assets and liabilities from a larger original plan. The funding level of each individual participant's benefits shall be no less than before the event, when calculated on a "plan termination basis."	Keep current language in DOE contracts.	Page 15	Page VI-9