

**AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT** 1. CONTRACT ID CODE PAGE 1 OF 2 PAGES

2. AMENDMENT/MODIFICATION NO. **M110** 3. EFFECTIVE DATE **See Block 16C** 4. REQUISITION/PURCHASE REQ. NO. 5. PROJECT NO. (if applicable)

6. ISSUED BY **U.S. Department of Energy  
National Nuclear Security Administration Service Center  
Property and M&O Contract Support Department  
P.O. Box 5400  
Albuquerque, NM 87185-5400** CODE  
7. ADMINISTERED BY (If other than Item 6) **U.S. Department of Energy  
National Nuclear Security Administration  
Manager, Pantex Site Office  
P.O. Box 30030  
Amarillo, TX 79120** CODE

8. NAME AND ADDRESS OF CONTRACTOR (No., street, county, state, ZIP Code)  
**BWXT Pantex, LLC  
Route 726, Mt. Athos Road  
Lynchburg, VA 24506**

9A. AMENDMENT OF SOLICITATION NO.  
9B. DATED (SEE ITEM 11)  
10A. MODIFICATION OF CONTRACT/ORDER NO.  
**DE-AC04-00AL66620**  
10B. DATED (SEE ITEM 13)  
**July 28, 2000**

CODE FACILITY CODE

**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 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 ACKNOWLEDGMENT 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)

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

- A. THIS CHANGE ORDER IS ISSUED PURSUANT TO (Specify authority): THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
- B. THE ABOVE-NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (Such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
- C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:
- D. OTHER (Specify type of modification and authority):  
 Public Law 95-91 and Other Applicable Law

E. IMPORTANT: Contractor  is not,  is required to sign this document and return 3 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)  
This modification deletes Appendix A, "Personnel Appendix," as of May 19, 2005, and replaces it with Appendix A, "Personnel Appendix," of this modification. The revised Appendix A incorporates Reimbursement Authorizations thirteen (13) through nineteen (19), which have been previously approved by a Contracting Officer.

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

15A. NAME AND TITLE OF SIGNER (Type or print) **BRIAN BIDWELL, PRIME CONTRACT MANAGER** 16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) **Marc D. McCusker, Contracting Officer**

15B. CONTRACTOR/OFFEROR BY *[Signature]* (Signature of person authorized to sign) 15C. DATE SIGNED **6-2-06** 16B. UNITED STATES OF AMERICA BY *[Signature]* (Signature of Contracting Officer) 16C. DATE SIGNED **6/3/06**

As of May 23, 2006

### REIMBURSEMENT AUTHORIZATIONS

<u>RA #</u>	<u>Description</u>	<u>Date Approved</u>	<u>Effective Date</u>
#1	Service Recognition	Nov. 18, 2001	Oct. 1, 2001
#2	Service Recognition	Aug. 27, 2001	Jun. 22, 2001
#3	Overtime Pay Program	Mar. 3, 2004	Jan. 1, 2004
#4	Employment Policies	Dec. 24, 2003	Jan. 1, 2004
#5	Non-Bargaining Certification Pay	Feb. 16, 2004	Mar. 2, 2004
#6	Non-Bargaining Labor Pool Pay	Feb. 16, 2004	Mar. 2, 2004
#7	Joint Technical Operating Team on Call Pay	Jun, 3, 2004	Oct. 1, 2003
#8	Personal Leave	Jul. 8, 2004	Jul. 1, 2004
#9	Defined Contribution Savings Plan MTC 401(k) Contributions	Mar. 21, 2005	Mar. 1, 2003
#10	Vacation Leave Donation	May 4, 2005	Oct. 1, 2004
#11	Compensation During Suspension of Access Authorization	May 9, 2005	May 2, 2005
#12	Retirement Changes for Nonbargaining Employees Who Carry a Weapon	May 4, 2005	Mar. 18, 2002
#13	Professional Fees, Dues, Licenses, and Certifications	May 19, 2005	Oct. 1, 2004
#14	Personnel Temporarily Assigned From Contract Work	Sep. 7, 2005	Sept. 1, 2005
#15	Working Sixteen (16) or More Consecutive Hours	Nov. 17, 2005	Dec. 1, 2005
#16	Non-Bargaining Sick Leave Admin	Nov 1, 2005	Nov. 1, 2005
#17	Leave of Absence – Family and Medical Leave Act (FMLA)	Jan. 18, 2006	Nov 1, 2005
#18	Revision to Benefits Program – Company Affiliation Definition	Feb. 8, 2006	Dec. 19, 2005
#19	Working Sixteen (16) or More Consecutive Hours	Feb. 8, 2006	Feb. 8, 2006

APPENDIX A – PERSONNEL APPENDIX  
BWXT PANTEX, LLC

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APPENDIX A – PERSONNEL APPENDIX  
BWXT PANTEX, LLC

INTRODUCTION

This Personnel Appendix sets forth those Contractor Human Resource Management policies and related expenses that have cost implications under the contract, and identifies those costs deemed reasonable and allowable for reimbursement when incurred in the performance of the Contract work. Only those items of personnel costs and related expenses that are set forth herein or specifically referenced in this Personnel Appendix are allowable costs by advance understanding under this Contract to the extent that these costs do not conflict with any other contract clause.

The Contractor shall select, manage, and direct the workforce. The Contractor shall use effective management review procedures and internal controls to assure that the allowable costs set forth herein are not exceeded, and that cost items which require prior approval of the Department of Energy (DOE) Contracting Officer or designated representative are reviewed and approved prior to incurrence of costs.

Either party may request that this Personnel Appendix be revised and the parties hereto agree to give consideration in good faith to any such request. Revisions to the Personnel Appendix shall be accomplished by executing a Reimbursement Authorization (DOE Form AD-36) as approved by the Contracting Officer or designated representative. When revisions to this Personnel Appendix are agreed upon, revised pages will be issued reflecting such changes and will bear the effective date of such changes and the Reimbursement Authorization number in the upper right-hand corner of each page.

The Personnel Appendix is adopted for the exclusive benefit and convenience of the parties hereto, and nothing contained herein shall be construed as conferring any right or benefit upon past, present, or future employees of the Contractor, or upon any third party.

The Contractor shall promptly furnish all reports and information required or otherwise indicated in this Appendix to the Contracting Officer.

## DEFINITIONS

Base Pay. For nonexempt employees, the rate of pay per hour exclusive of any premium, established for each job classification in accordance with the approved compensation program or collective bargaining agreements.

Base Pay. For exempt employees, the amount of pay per month established for each job classification in accordance with the approved compensation program.

Basic Workweek. A fixed and regularly occurring period of 168 hours, (7) consecutive 24-hour periods. The basis for computing overtime for work occurring beyond 40 hours, unless specified elsewhere.

Contractor. BWXT Pantex, LLC (BWXT Pantex)

DEAR. Acronym for the Department of Energy Acquisition Regulation.

DOE. The United States Department of Energy.

Employee. A person hired by and working for the Contractor.

Exempt Employee. Executive, administrative, and professional employees who are exempt from certain provisions of the Wage and Hour laws.

FAR. Acronym for the Federal Acquisition Regulation.

FTR. Acronym for Federal Travel Regulation, as it applies to the Federal Civilian Employee and Contractor Travel Expense Act of 1985.

General Manager. Means the Contractor General Manager in charge of the DOE contract work.

PGU Employees. Acronym for nonexempt employees covered by the Articles of Agreement between the Contractor, BWXT Pantex, and the Pantex Guard Union **(RA#4)**

Immediate Family. Immediate family members include husband, wife, son, daughter, mother, father, mother-in-law, father-in-law, sister, brother, sister-in-law, brother-in-law, grandmother, grandfather, grandchildren, step-children, son-in-law, and daughter-in-law. Payment may be made where the deceased relative is not a member of the immediate family as defined above, but served in the place of a parent to the employee, subject to approval of the HR Manager. **(RA#4)**

MTC Employees. Acronym for nonexempt employees covered by the Articles of Agreement between the Contractor, BWXT Pantex and Metal Trades Council of Amarillo, Texas and Vicinity, A.F. of L. - C. I. O.

NENB Employees. Acronym for nonexempt/nonbargaining employees who are covered under and are subject to the provisions of Wage and Hour laws. These employees are nonexempt and are not covered by a collective bargaining agreement.

Regular Scheduled Shift. The normal hours of working time in each payroll day established for each employee.

Salary Increase. An increase in salary of an employee within the established rate range of the employee's job classification, which is granted consistent with the provisions of the approved compensation program.

Training. Instruction designed to develop or improve job performance by increasing knowledge or understanding, develop skills, or change behavior; carried out in response to a clearly identified need for which clear and measurable objectives have been derived.

I. COMPENSATION SYSTEM

A. Policy/Objectives.

1. The purpose of the Contractor compensation system is to facilitate the achievement of organizational objectives and support business strategies of DOE and the Contractor. The programs are designed and administered to attract, retain and motivate a competent and productive workforce that supports the mission at the Pantex Plant. The programs will apply to exempt and nonexempt/nonbargaining (NENB) employees and shall be:
  - a. Internally equitable — to meet this criterion, the employer establishes pay levels that correspond to each job's relative value to the organization.
  - b. Externally equitable — to meet this criterion, the employer establishes pay levels that correspond to those prevailing in relevant external markets for employees' positions.
  - c. Compliant with all applicable laws and regulations.
2. The Compensation System program costs directly attributable to compensation provided to Contractor employees will be allowable under this Appendix A.

B. Exempt and Nonexempt/Nonbargaining Compensation Programs.

The Contractor shall:

1. Design compensation programs so that they include the following components:
  - a. Philosophy and strategy for all pay delivery programs.
  - b. System for establishing a job worth hierarchy.
  - c. System for job documentation, including the establishment of job descriptions for each job classification.
  - d. Method for relating internal job worth hierarchy to external market.
  - e. System which links individual and/or group performance to compensation decisions.

- f. Method for planning and monitoring the expenditure of funds.
  - g. Method for assuring compliance with applicable laws and regulations.
  - h. System for communicating the programs to employees.
  - i. System for internal controls and self-assessment.
2. Obtain DOE approval for the initial Compensation Program design. The major compensation program design elements are:
    - a. Internal job evaluation system.
    - b. External market pricing system.
    - c. Performance management system.
    - d. System for controlling the expenditure of funds.
  3. Obtain DOE approval for proposed changes to the major compensation program design elements prior to implementation.
  4. Obtain DOE approval for the annual Compensation Increase Plan (CIP) and Salary Ranges.
    - a. The CIP budget period will be the 12-month period from January 1 through December 31 of each year.
    - b. The proposed CIP totals will be expressed as a percentage of the payroll for the end of the previous plan year. The total amount of salary increases granted during the budget period shall not exceed the approved funds. In no event shall any unexpended portion of the CIP established for one budget period be carried into the succeeding budget period.
    - c. 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.
    - d. Specific employee groups (e.g., exempt, nonexempt/nonbargaining) for which CIP amounts are intended shall be defined by mutual agreement between the Contractor and the DOE.

- e. DOE may adjust the unexpended balance of the CIP amount based on major changes such as a significant reduction in Contractor employment levels, as in a reduction in force or drastic changes in the competitive labor market which significantly affect the CIP amount.
5. Obtain DOE approval for individual compensation of the General Manager and the Deputy General Manager. These actions shall be submitted to DOE on a Compensation Approval Form, DOE F 3220.5 at least forty-five (45) days in advance of the proposed effective date of the action. DOE shall exert its best efforts to process the approval determination within the forty-five (45) day period; in the event the approval determination is not provided within forty-five (45) days, subsequent approval shall be made retroactive to the effective date proposed by the Contractor.
6. Obtain DOE approval for any proposed salary amount paid an employee in excess of the salary range prior to payment.

C. Overtime Pay Program.

The Contractor shall:

1. Manage and control overtime to efficiently conduct business and provide for cost-effective utilization of human resources.
2. An employee who works sixteen (16) or more consecutive hours must receive at least eight (8) hours off duty before reporting to the next scheduled shift, unless otherwise stipulated for bargaining employees under a collective bargaining agreement. However, in the case of an emergency, as defined by senior management (Division Manager or above), employees may be required to work more than sixteen (16) hours or receive less than eight (8) hours off duty to ensure all operational requirements are met. **(RA#15) (RA # 19)**
3. Apply the following provisions regarding the payment of overtime:
  - a. Exempt Employees

The following exempt employees, who are directed and scheduled to work overtime and such overtime is approved by the Contractor, may be paid at their straight-time hourly equivalent base pay for all hours worked in excess of 40 hours in a basic workweek. Hours actually worked and paid absences shall be considered as hours of work for computing overtime pay under this Appendix A. **(RA#3)**

- (1) Supervisory employees Grade VI or below.

- (2) Employees, as identified below, who are assigned to work a schedule different from the basic work schedule of the Plant.
  - (a) Supervisory employees within the Fire Department.
  - (b) Supervisory employees within the Security Force Department.
  - (c) Supervisory employees within the Utilities Department.
  - (d) Employees within the Emergency Operation Center.

b. NENB Employees.

The following overtime provisions shall be applicable. These provisions will be reviewed on an annual basis to determine future applicability.

- (1) Except as provided in subparagraphs (2) and (3) below, a NENB employee shall be paid at the rate of one and one-half (1½) of the employee's base pay and shift differential, if applicable, for all hours worked in excess of eight (8) hours (5-day workweek participants) or ten (10) hours (4-day workweek participants) in any twenty-four (24) hour period or forty (40) hours in any one basic workweek, calculated on both a daily and weekly basis with the payment of the higher amount so derived but in no event will this result in double compensation.
- (2) Each employee participating in a workweek consisting of five (5) eight (8) hour days shall receive time and one-half of the employee's base pay for all hours worked on the employee's first day of rest, and double time for all hours worked on the employee's second day of rest.
- (3) Each employee participating in a workweek consisting of four (4) ten (10) hour days shall receive time and one-half of the employee's base pay for all hours worked on the employee's first and second day of rest, and double time for all hours worked on the employee's third day of rest.

- (4) Hours actually worked shall be considered as hours of work for computing overtime pay.
- (5) An employee who is required to work in excess of sixteen (16) continuous hours, excluding the nonpaid lunch period, shall be paid two (2) times his/her regular base pay for all such continuous hours worked in excess of sixteen (16).
- (6) If an employee is required to work eleven (11) or more continuous hours (counting the regular lunch period) he/she shall be granted a meal allowance of \$4.00. If the employee works eleven (11) hours and is to continue working, he/she will be granted the meal allowance and thirty (30) minutes to eat on Company time. An employee will be granted another meal allowance and thirty (30) minutes to eat on Company time for each successive four (4) hours of work, providing he/she is to continue working. If he/she is scheduled to clock out at the end of a four (4) hour period, the employee will be furnished the meal allowance only. Day shift employees only, scheduled to work their full regular shift and two (2) or more hours immediately preceding their regular shift, will be granted a meal allowance of \$4.00 for breakfast to be eaten before they report for scheduled work.
- (7) An employee reporting to work at his/her regular starting time, unless previously notified not to report, may be paid at his/her appropriate base pay and shift differential, if applicable, for all hours worked, but not less than for four (4) hours.
- (8) An employee called in by the Contractor to work outside his/her regular shift to meet special requirements may be paid at the applicable overtime rate for all hours worked, but not less than four (4) hours. However, should an employee be notified prior to the completion of his/her previous shift to report to work prior to the start of his/her regular shift and such work is contiguous to the regular shift, he/she will be guaranteed two (2) hours pay at his/her applicable overtime rate.

D. Shift Differential Pay Program.

The Contractor shall apply the following provisions to all shift work schedules and shift differentials:

1. Shift differentials will not be used in computing pay for excused absences except as otherwise provided in this Appendix A.
2. Exempt employees grade VIII or lower may receive shift differential at the rate of ten percent (10%) of his/her base pay for all hours worked when he/she is assigned to work a night shift (as defined in Paragraph 4. below). The employee's salary subject to shift differential payments shall be calculated by converting the employee's basic monthly salary to an hourly equivalent rate. This calculated rate is multiplied by ten percent (10%) to arrive at the appropriate shift differential rate for all applicable hours.
3. An exempt Security Officer who is assigned to work on the 12-hour rotating shift may receive a shift differential at the rate of ten percent (10%) of his/her base pay for all hours worked on the rotating shift. The employee's salary subject to shift differential payments shall be calculated by converting the employee's basic monthly salary to an hourly equivalent rate. This calculated rate is multiplied by ten percent (10%) to arrive at the appropriate shift differential rate for all applicable hours.
4. NENB employees who are assigned to work a night shift may receive a shift differential for all hours worked on a night shift as follows:

8-Hour, 5-Day Workweek

Swing Shift	4:00 p.m.-12:30 a.m.	\$.50 per hour
Graveyard Shift	12:00 a.m.- 8:30 a.m.	\$1.00 per hour

10-Hour, 4-Day Workweek

Swing Shift	5:00 p.m.-3:30 a.m.	\$.50 per hour
Graveyard Shift	9:00 p.m.-7:30 a.m.	\$1.00 per hour

E. Compensations for Certifications.

Non-bargaining employees may be paid for certifications on the same basis as employees within the MTC and PGU Bargaining units. **(RA#5)**

F. Compensation for Labor Pool.

Non-bargaining employees may be paid for assignment to the labor pool on the same basis as employees within the MTC and PGU bargaining units. **(RA#6)**

G. On Call Pay.

On call pay will be allowed for Joint Technical Operating Team (JTOT) personnel as provided for in the NNSA/DOE AI Emergency Response Programs Work Authorization Statement. **(RA#7)**

H. Compensation During Suspension of Access Authorization. **(RA # 11)**

1. If the access authorization of an employee is suspended by direction of the Director of Security, DOE/NNSA Service Center, the Contractor may transfer the employee to work not requiring access authorization if such work is available, without reducing the employee's base compensation. If the Contractor determines no work is available in an uncleared area to which the employee may be transferred, the Contractor may place the employee on leave with pay for up to thirty (30) calendar days at his/her base compensation and then without pay after thirty (30) calendar days until the Contractor receives notification in writing from the Director of Security, DOE/NNSA Service Center.
2. Dependent on the recommendation of the Director of Security, DOE/NNSA Service Center relative to access authorization, the Contractor may compensate the employee as set forth herein:
  - a. In the event the employee was transferred to another position where such access authorization is not required, compensation may, thereafter, be the base compensation applicable to the new position, and such compensation may continue until final disposition of the case under DOE procedures 10 CFR Part 710.
  - b. In the event a job transfer was not arranged (i.e., the employee was placed on leave), the employee may remain on leave (initially paid for 30 days and without pay thereafter) until final disposition of the matter.
  - c. If at any stage of the access authorization procedure following a suspension or at the conclusion of the administrative review process provided under 10 CFR Part 710, the employee's access authorization is reinstated by the Director of Security, DOE/NNSA Service Center, the Contractor will offer the employee reinstatement in the same or a comparable position (for which they qualify) to the one held prior to suspension. The employee may also be reimbursed for the difference between the employee's base wage and scheduled overtime or salary and actual earnings,

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including earnings from other employment, during the period of unpaid suspension.

II. BENEFITS PROGRAM.

A. Policy/Objectives.

1. The Contractor will design and administer benefit programs to attract, retain, and motivate competent and productive employees to support the mission at Pantex. The program shall be:
  - a. Competitive with the external labor markets.
  - b. Cost-effective and within criteria prescribed by DOE.
  - c. Compliant with all applicable laws and regulations.
2. Benefits program costs directly attributable to benefits provided to Contractor employees or Contractor retirees, as well as reasonable administrative costs, will be allowable under this Appendix A. Allowable insurance costs incurred in connection with the plans shall be all costs under the above plans which are applicable to the work under the Contract and which are in excess of the employee's or retiree's level of premium contribution.
3. The Contractor may provide employees the provision of making required benefit plan contribution payments on a pre-tax basis consistent with Section 125 of the IRS Tax Code.
4. DOE will recognize, as an allowable cost under this Contract, any and all costs, fines, penalties, retroactive salary adjustments, and/or charges resulting from the practices of: (1) reducing exempt employees' paid leave accruals for absences of less than whole workdays, and (2) paying exempt employees straight time overtime and shift differential.
5. a. For employees who were employed at the Pantex Plant on or before December 19, 2005, the following clause applies: **(RA # 18)**

BWXT Pantex employees transferring directly from companies affiliated with Bechtel, Honeywell and BWXT will retain their continuous or credited service for purposes of determining eligibility and vesting for vacation, severance pay, eligibility to participate in the 401(K) plan and the pension plan, entitlement to retiree medical benefits, and entitlement to early retirement benefits and early commencement of deferred vested benefits under the pension plan. Only the time the employee participates in

the BWXT Pantex pension plan will be used in the calculation of pension benefits. **(RA #18)**

- b. For employees who are employed at the Pantex Plant after December 19, 2005, the following clause applies: **(RA #18)**

BWXT Pantex employees transferring directly from companies affiliated with Bechtel, Honeywell, and BWXT will retain their continuous or credited service for years of work performed on DOE related contracts for purposes of determining eligibility and vesting for vacation, severance pay, eligibility to participate in the 401(k) plan and the pension plan, entitlement to retiree medical benefits, and entitlement to early retirement benefits and early commencement of deferred vested benefits under the pension plan. This credit is associated with DOE contract related service at production plants, laboratories, EM sites, and other sites managed by the DOE and corporate sites whose principal business are DOE contracts. Employees transferring directly from companies affiliated with Bechtel, Honeywell and BWXT who have not performed work on DOE related contracts or at corporate sites whose principal business is DOE contracts will retain the continuous or credited service date recognized by the affiliated company from which they transfer only for the purpose of entitlement to vacation, savings plan, pension plan vesting, and early retirement. Only the time the employee participates in the BWXT Pantex pension plan will be used in the calculation of pension benefits.

For purposes of this clause, "DOE" represents the Department of Energy, including the National Nuclear Security Administration and Naval Reactors.

- c. BWXT Pantex may on a case-by-case basis, with the advance approval of the Contracting Officer, extend the benefits in accordance with paragraph 5.a. to corporate personnel possessing unique capabilities needed at Pantex where employment and relocation of the individual may be otherwise unattainable. **(RA # 18)**

B. Exempt and Nonexempt/Nonbargaining Benefits Program.

The Contractor shall:

1. Conduct a benefit value study every three (3) years using agreed upon

actuarial methods. This study:

- a. Shall be valid for three (3) years.
  - b. Must produce results that fall within the range of acceptable values. If not, the Contractor will submit an action plan to bring the benefit programs into conformance.
  - c. Must include a list of not less than fifteen (15) participants to be a part of the study. The list must be mutually agreed upon by the Contractor and DOE and should include organizations in the same industries from which the Contractor competes for employees. The participant list should remain constant from period to period.
  - d. Shall include all non-statutory benefit plans offered by the Contractor, including pension plans, welfare benefit plans, and paid-leave plans.
  - e. Shall utilize participant comparison data that is current.
  - f. Must be performed by a national consulting firm with expertise in benefit value studies.
  - g. Shall include a complete copy of the methodology used to define each benefit plan, a description of the benefit plans, a list of survey respondents and the actuarial assumptions.
2. Obtain DOE approval for proposed changes to benefit plans prior to implementation.
  3. Determine the value of the current benefit program costs as compared to the specified range of acceptability defined by the benefits value study as follows:
    - a. The Contractor and Contracting Officer shall review the total compensation package to include pay levels in relationship to the market, with full consideration to paid rate to market positions, and the average net benefit plan value. Based on this review, the Contractor and Contracting Officer shall mutually agree whether or not additional consideration of the average net benefit plan value in the context of the total compensation package is necessary.

- b. When the Contractor's net benefit plan value does not exceed five percent (5%) of the average net benefit value as determined by the benefit study, the program costs shall be considered within the range of acceptability and no further action will be required on the part of the Contractor.
  - c. When the Contractor's net benefit plan value falls within a range that is greater than five percent (5%) and up to ten percent (10%) of the average net benefit value as determined by the benefit study, an action plan to achieve conformance with the range of acceptability will be required, unless otherwise justified and approved in writing by the Contracting Officer.
  - d. When the Contractor's net benefit plan value exceeds ten percent (10%) of the average net benefit value as determined by the benefit study, an action plan to achieve conformance with the range of acceptability is required. Any action taken will be implemented in a manner so as to preclude disparate impact to nonbargaining employees.
4. Apply the provisions of the benefit plans as follows:
- a. Group Insurance.
    - (1) The Contractor has made available to its exempt and NENB employees at Pantex the following insurance benefits:
      - Group Life Insurance
      - Accidental Death & Dismemberment Insurance
      - Dependent Life Insurance
      - Comprehensive Medical Insurance
      - Group Dental Insurance
      - Long Term Disability Insurance
      - Retiree Group Life Insurance
      - Retiree Comprehensive Medical Insurance
      - Mail Order Prescription Drug Program
      - Foreign Travel Medical Assistance Insurance
      - Vision Plan (**RA#4**)
    - (2) A pro-rata portion of dividends, returned premiums, or other credits which may accrue to the group insurance program shall be credited to the portion of the Contractor's contributions allowable under this Contract.

- (3) In the event of the termination or expiration of this Contract, all liabilities and costs associated with the Retiree Comprehensive Medical Insurance plans shall be assumed by the DOE and/or a successor contractor.

b. Defined Benefit Pension Plan.

- (1) The Contractor maintains the following retirement plans for its employees at Pantex:
  - (a) BWXT Pantex, LLC Retirement plan for nonbargaining employees (excluding nonbargaining employees required to carry a firearm and meet physical fitness requirements of the security force or nonbargaining employees who are employed as a firefighter/paramedic responder. **(RA #4 & RA#12)**)
  - (b) Retirement plan for bargaining unit employees of the Metal Trades Council of BWXT Pantex, (including nonbargaining employees who are employed as a firefighter/paramedic responder). **(RA #4 & RA #12)**
  - (c) Retirement plan for bargaining unit employees of the Pantex Security Force, (including nonbargaining employees who are required to carry a firearm and meet physical fitness requirements of the security force); however, employees hired on or after March 18, 2002, are not eligible to participate in this plan and employees hired prior to March 18, 2002, who elect to participate in the enhanced 401(k) plan will no longer be eligible to participate in the retirement plan. **(RA #4 & RA #12)**
  - (d) BWXT Pantex employees transferring from Bechtel, Honeywell, or BWXT affiliated companies will not have a waiting period to participate in the BWXT Pantex pension plan.
- (2) In the event the Contractor—
  - (a) Ceases accrual of benefits under the defined benefit plans during the term of this Contract, then Contractor shall continue the funding vehicle and pay benefits

due under the Plans from said funds. Should this Contract be subsequently terminated or expire, then in such event Contractor shall comply with the provisions in Schedule I.

- (b) Terminates the defined benefit plan(s) upon DOE approval, then Contractor shall purchase annuities under the pension IPG contract or on the open market, whichever is the most cost effective. The procedures for disposition of Contract Service Assets and Contract Service Liabilities shall be those identified in Schedule I.
- (3) DOE shall have the right to examine and audit the Contractor's computations of the adjustments provided for under this Part II.B.4.b., together with the supporting data, if the Contracting Officer so requests. The formula and assumptions used for such adjustments shall be consistent with the actuarial basis and principles then currently used in computing the pension cost.
- (4) Copies of all amendments to the Plans and contract shall be supplied to DOE when the amendments are executed by the Contractor.
- (5) In the event of a discontinuance of the Prime Contract, the Contractor will determine final pension costs in accordance with the provisions in Schedule I, Principles and Procedures for Accounting and Reconciliation of DOE Funding Obligations.
- (6) The Contractor shall secure the approval of DOE prior to any commitment to a successor funding agent for the disbursement of benefits.
- (7) The defined benefit plans maintained for employees of the Contractor are amended and restated as noncontributory plans effective as follows:
  - (a) Nonbargaining Plan — October 1, 1991 (**RA #4**)
  - (b) Metal Trades Council Plan — March 1, 1993
  - (c) Security Force Plan — June 1, 1994

- (8) The Contractor shall annually submit to DOE, copies of the Plans' actuarial valuations, accounting reports, and IRS Tax Packages 5500. The actuarial valuation will reflect the Contractor's actual pension costs and funding requirements for that year.

c. Defined Contribution Savings Plan.

- (1) The Contractor maintains the following 401(k) retirement plan for its exempt and NENB employees at Pantex Plant.

**BWXT Pantex LLC 401(k) Plan for Non-bargaining Employees (RA # 4)**

- (a) The Contractor is the Plan Sponsor for this 401(k) retirement plan.
- (b) Under the terms of such plan, an employee (excluding nonbargaining employees required to carry a firearm and meet the physical requirements of the security force) may contribute from one (1) to fifty (50) percent of compensation and the Contractor will match sixty-two and one half percent (62.5%) of the employee's contribution up to eight percent (8%) (maximum match of five percent (5%)). Costs required to meet this matching contribution are allowable costs under this Contract. **(RA #4 & RA #12)**
- (c) Under the terms of such plan, nonbargaining employees required to carry a firearm and meet physical fitness requirements of the security force may contribute from one (1) to fifty (50) percent of compensation and the company matching formula for employees who accepted employment prior to March 18, 2002, and do not elect to participate in the enhanced 401(k) plan is fifty percent (50%) of the first eight percent (8%) of employee's contributions to a maximum company match of four percent (4%). **(RA #12)**
- (d) Effective January 1, 2003, the company matching formula for the enhanced 401(k) plan (for

nonbargaining employees required to carry a firearm and meet physical fitness requirements of the security force who have accepted employment prior to March 18, 2002, and who elect to participate in the enhanced 401(k) plan) shall be one hundred percent (100%) of the first ten percent (10%) of employee contributions. **(RA #12)**

- (e) New nonbargaining employees required to carry a firearm and meet physical requirements of the security force who accept employment on or after March 18, 2002, shall be eligible for the basic 401(k) plan through December 31, 2002, and shall be moved to the enhanced 401(k) plan on January 1, 2003. **(RA #12)**

- (2) The Contractor maintains the following 401(k) retirement plan for its Metal Trades Council bargaining employees.

**BWXT Pantex LLC 401(k) Plan for Bargaining Employees  
(RA #4)**

- (a) Under the terms of such plan, an employee may contribute from one (1) to fifty (50) percent of compensation and the Contractor will match sixty two and one half (62.5) percent of the employee's contribution up to eight percent (8%) (maximum match of five percent (5%)). Costs required to meet this matching contribution are allowable costs. **(RA #4 & RA#9)**

- (3) The Contractor maintains the following 401(k) retirement plan for its Security Force bargaining employees.

**BWXT Pantex LLC 401(k) Plant for Bargaining Employees.  
(RA#4)**

- (a) Under the terms of such plan, an employee may contribute from one (1) to fifty (50) percent of compensation and the company matching formula for employees who accepted employment prior to March 18, 2002, and do not elect to participate in the enhanced 401(k) plan is fifty percent (50%) of the first eight percent (8%) of employee's contributions

to a maximum company match of four percent (4%).  
**(RA #4)**

- (b) Effective January 1, 2003, the company matching formula for the enhanced 401(k) plan for all employees who have accepted employment on or after March 18, 2002, and for employees who have accepted employment prior to March 18, 2002, and who elect to participate in the enhanced 401(k) plan instead of the retirement plan and basic 401(k) plan shall be one hundred percent (100%) of the first ten percent (10%) of employee contributions. **(RA #4)**
  - (c) New hires accepting employment on or after March 18, 2002, shall be eligible for the basic 401(k) plan through December 31, 2002, and shall be moved to the enhanced 401(k) plan on January 1, 2003. **RA #4)**
  - (d) All costs required to meet the matching contributions as stated above are allowable costs. **(RA #4)**
- (4) In the event of the termination or expiration of this Contract, or in the event the Contractor shall terminate the Plan(s) upon DOE approval, then in such event DOE liability shall be limited to such liability as has accrued under the Plan(s) to the date of termination of the plan, or expiration or termination of the Prime Contract, whichever is applicable.

d. Holidays.

- (1) Each exempt and NENB employee may, when the work schedule permits, be granted time off for holidays as follows:
  - (a) Each employee participating in a workweek consisting of five (5) eight (8) hour days will be granted time off with pay for the following ten (10) holidays per calendar year and paid at the rate of eight (8) hours pay at his/her straight time base pay rate, if applicable: **(RA #4)**

New Year's Day	Good Friday
Memorial Day	Independence Day
Labor Day	Columbus Day

Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	Floating Holiday

- (b) Each employee participating in a workweek consisting of four (4) ten (10) hour days will be granted time off with pay for the following eight (8) holidays per calendar year and paid at the rate of ten (10) hours pay at his/her straight time base pay rate, if applicable. **(RA #4)**

New Year's Day	Christmas Day
Memorial Day	Independence Day
Labor Day	Columbus Day
Thanksgiving Day	Floating Holiday

- (2) A NENB employee required to work on one of the designated holidays, shall receive holiday pay (as defined above) plus premium pay for all hours worked on the holiday at the rate of two times his/her straight-time base pay rate and shift differential, if applicable.
- (3) An exempt employee who is required to work on a day observed as one of the designated annual holidays may be permitted to choose another regularly scheduled workday to observe the holiday. The alternate workday shall be taken at a later date, but within the same calendar year, where practicable.

e. Vacation.

- (1) Exempt and NENB employees shall earn, on a prorated basis, and may take vacations in accordance with the following schedule:

<u>Completed Years of Service</u>	<u>Annual Vacation Accrual</u>
1-2 years	80 hours
3-9 years	120 hours
10-19 years	160 hours
20 years or more	200 hours

- (2) Exempt and NENB employees may take annual vacation leave in one-hour increments. However, exempt employees who are allowed time off for vacation in increments of less than a whole workday and have exhausted all accrued vacation leave benefits shall receive one hundred percent (100%) of their regular base pay without reduction for the vacation leave. Vacation leave in increments of whole workdays taken by exempt employees who have exhausted all accrued vacation leave will be considered time off without pay.
- (3) Vacation allowance will be paid based upon the employee's base pay in effect at the time the vacation is taken, or at the time of transfer or termination, as is applicable.
- (4) With the approval of the Contractor, vacation for all employees may be taken in advance of accrual. There may be advanced only as much vacation as will be accrued during the six-month period following the date of request. Should an employee who has received such advanced vacation terminate before his/her accrual equals the advance, the Contractor will use due diligence in obtaining the appropriate refund.
- (5) The Contractor may, with Contracting Officer approval, grant a newly-hired employee service credits for purposes of vacation accrual when it is deemed necessary in order to attract and hire requisite highly skilled staff.
- (6) Employees who are eligible for the sick leave buy back benefits in a payroll year may elect to have the company buy back vacation credits at the employee's base hourly day rate, in one hour increments, which are in excess of eighty (80) hours. Only active employees on the payroll at the time of the annual sell back will be eligible to participate. In no instance are employees paid for more than they are eligible to receive. **(RA #4)**
- (7) Nonbargaining employees are allowed the opportunity to donate vacation hours to fellow employees who have experienced a catastrophic illness or injury of an immediate family member and who have exhausted all accrued time, thus resulting in a prolonged, unpaid leave of absence.

Eligible nonbargaining employees may apply for a vacation donation through this program designated as the Leave Donation Program. Eligible employees may donate accrued vacation in whole-hour increments. The Benefits Department administers donated vacation hours and recipient hours according to Leave Donation Program criteria. **(RA #10)**

f. Sick Leave.

- (1) Sick Leave is earned and accrued, on a prorated basis, by exempt and NENB employees as follows:

Annual Sick Leave Accrual

Exempt employees      120 hours

NENB employees      120 hours

No sick leave during the first thirty (30) days of employment except for occupational illness or injury. **(RA #4)**

- (2) Sick leave accruals shown in paragraph (1) above for exempt and NENB employees may accrue to a maximum 1,734 hours.
- (3) In the event an employee has exhausted all sick leave accruals, the employee may have their pay continued at seventy percent (70%) of his/her base pay for the remaining duration of the incapacitation period normally not to exceed a total incapacitation period of twenty-six (26) weeks from the date of disability. **(RA #4)(RA #16)**
- (4) Employees may elect to be reimbursed for up to forty-eight (48) hours of unused earned sick leave credits each year. The reimbursement will be at the employee's basic rate of pay and determined by each employee's individual sick leave usage the previous payroll year. Employees must be on the active payroll at the annual buy-back period to be eligible to participate.
- (5) In the event an employee is transferred to work under this Contract, such employee shall retain unused sick leave credits. Upon transfer from work under this Contract, the unused sick leave credits will not be paid to the employee.

- (6) Immediately when an employee's service with the Contractor is terminated, sick leave credits are forfeited and further sick leave accrual ceases. Provided however, that if an employee is terminated due to a reduction in force and is subsequently rehired by the Contractor at this site, within three (3) years from the date of such termination in the case of exempt employees, or two (2) years in the case of NENB employees, such sick leave credits as the employee had to his/her credit at the time of termination will be reinstated, effective with the date of his/her reemployment.
- (7) In the event of a qualifying long-term disability, employees may only use accrued sick leave until such time when Long-Term Disability benefits are payable.
- (8) Sick leave will be paid based upon the employee's base pay in effect at the time the sick leave is actually taken.
- (9) Sick leave payments shall not duplicate Workers' Compensation benefit payments.
- (10) In the event of the death of an employee who is in a paid sick leave status at the time of death, sick leave payments or credits due up to the date of death may be paid to the employee's surviving spouse, or other representative of the employee's estate, in accordance with the applicable laws. This provision is applicable to all employees.
- (11) Exempt and NENB employees may report and be charged for accrued sick leave in increments of fifteen (15) minutes. Exempt employees who are allowed time off for a partial day and have exhausted all sick leave shall receive one hundred percent (100%) of their regular base pay without reduction for the sick leave. Sick leave in increments of whole workdays taken by exempt employees who have exhausted all accrued sick leave will receive seventy percent (70%) of his/her base pay for the remaining duration of the illness normally not to exceed a total incapacitation period of twenty-six (26) weeks. **(RA #4)(RA #16)**
- (12) Exempt and non-exempt non-bargaining employees may use up to 40 hours of earned sick leave credits each payroll year to care for a family member (as defined by HR Management).**(RA #16)**

(13) The following 'grandfather' provisions regarding the revision to the sick leave policy will apply to all exempt and NENB employees who are full-time employees at Pantex at implementation of this Appendix A:

- (a) Exempt employees who have accrued sick leave in excess of 1,734 hours will have their accruals ceased. They will not accrue additional leave until such time as their accumulated sick leave credits drop below 1,734 hours. At that time, they will accrue sick leave at the accrual rate shown above up to the 1,734 hour maximum. In the event of a qualifying long-term disability, these employees will be allowed to use all accrued sick leave prior to the activation of Long-Term Disability benefits.
- (b) Exempt and NENB employees, who have not accrued sick leave in excess of 1,734 hours at implementation of this Appendix A, will continue to accrue at the rate shown above up to the maximum allowed. In the event of a qualifying long-term disability, these employees will be allowed to use all accrued sick leave prior to the activation of Long-Term Disability benefits.

g. Personal Leave.

(1) The following employees are eligible for Personal Leave:

- (a) Exempt employees
- (b) NENB employees
- (c) MTC employees
- (d) PGU Communication Sergeants (**RA #4**)

(2) An eligible employee may be granted time off at his/her base pay with the approval of the Contractor, for occasional absences due to personal reasons. Personal leave for each eligible employee shall not exceed sixteen (16) hours per payroll year. Employees may report and be charged for personal leave in one hour increments. Exempt employees

who are allowed time off for personal reasons in increments of less than a whole workday and have already used sixteen (16) hours of personal leave in that payroll year shall be required to use accrued vacation leave for that partial day. However, exempt employees who are allowed time off for a partial workday and have exhausted all personal and vacation leave shall receive one hundred percent (100%) of their regular base pay without reduction for the personal leave. Personal leave hours taken in increments of whole workdays by exempt employees who have already used sixteen (16) hours will be considered time off without pay. **(RA #8)**

- (3) At the discretion of the General Manager, an eligible employee may be granted personal leave in excess of sixteen (16) hours per payroll year due to circumstances related to personal hardship provided the affected employee has exhausted all accrued vacation leave. Each case will be reviewed and approved by the General Manager.

h. Funeral Leave.

- (1) The Contractor will pay an exempt or NENB employee up to three (3) days for absence from work in the event of the death of a member of his/her immediate family.
- (2) Funeral leave will be paid based upon the employee's base pay in effect at the time the funeral leave is actually taken.

i. Jury Duty and Service as a Witness.

An exempt or NENB employee may be allowed time off with no reduction from the base pay the employee would have received if working full time at his/her job (not to exceed eight (8) hours per day for five (5)-day workweek participants and ten (10) hours per day for four (4)-day workweek participants, up to a maximum of forty (40) hours per week) for the time necessarily spent (i) serving on a jury or jury panel and (ii) serving as a witness, if required to do so by subpoena. Absences allowed under this provision shall not be considered as hours worked for purposes of computing overtime pay.

j. Military Leave.

- (1) Training

- (a) Any exempt employee who is a member of any branch of the National Guard or the Reserve Corps of any military unit recognized by either the state or the national government as a part of the armed forces shall be granted a military leave of absence when ordered out for: (i) annual training or (ii) temporary active duty, unrelated to annual training during any workweek in which he/she performs any work for the employer. Such employee shall be paid his/her full salary for the entire week, subject to the offset described below. Although not required by the Fair Labor Standards Act to do so, the Contractor will pay the full offset salary of an exempt employee for up to fifteen (15) workdays (5-day workweek participants) or up to twelve (12) workdays (4-day workweek participants) while the employee is on military leave for an entire workweek in any one (1) federal fiscal year. In each such instance, the Contractor will offset any amounts received by the employee as military pay for a particular week against the salary due from the Contractor for that particular week. In no event will the supplemented pay paid by the Contractor cause the employee to receive more pay than he/she would have otherwise regularly received.
- (b) Any NENB employee who is a member of any branch of the National Guard or the Reserve Corps of any military unit recognized by either the state or the national government as a part of the armed forces shall be granted a military leave of absence when ordered out for: (i) annual training or (ii) temporary active duty, unrelated to annual training. During this absence, he/she will be paid the difference between his/her base pay and a maximum of fifteen (15) days (5-day workweek participants) or twelve (12) days (4-day workweek participants) government pay (excluding allowances and travel pay) for time necessarily lost from work (up to a maximum of forty [40] hours per week), in any one (1) federal fiscal year. In no event will the Contractor supplement the pay of a NENB employee for a time period greater than defined above.

- (2) Emergency Duty.
- (a) Any exempt employee who is a member of any branch of the National Guard or the Reserve Corps of any military unit recognized by either the state or the national government as a part of the armed forces shall be granted a military leave of absence when ordered out for active local emergency service unrelated to annual training during any workweek in which he/she performs any work for the employer. Such employee shall be paid his/her full salary for the entire week, subject to the offset described below. Although not required by the Fair Labor Standards Act to do so, the Contractor will pay the full offset salary of an exempt employee for up to two (2) months while the employee is on military leave for an entire workweek in any one (1) federal fiscal year for any one (1) emergency. In each such instance, the Contractor will offset any amounts received by the employee as military pay for a particular week against the salary due from the Contractor for that particular week. In no event will the supplemented pay paid by the Contractor cause the employee to receive more pay than he/she would have otherwise regularly received.
- (b) Any NENB employee who is a member of any branch of the National Guard or the Reserve Corps of any military unit recognized by either the state or the national government as a part of the armed forces shall be granted a military leave of absence when ordered out for active local emergency service unrelated to annual training. During this absence, he/she will be paid the difference between his/her base pay and a maximum of two (2) months government pay (excluding allowances and travel pay) for time necessarily lost from work (up to a maximum of forty [40] hours per week), in any one (1) federal fiscal year for any one (1) emergency. In no event will the Contractor supplement the pay of a NENB employee for a time period greater than defined above.

k. Leaves of Absence. **(RA # 17)**

An employee will be allowed time off for the time spent in an approved leave status granted under the law, as set forth by the Family and Medical Leave Act and the regulations issued pursuant thereto. Accrued vacation and sick leave time may be used in accordance with Part II.B.4.e. and Part II.B.4.f. of this Appendix A during the employee's Family and Medical Leave Act absence. In addition, the Contractor will administer leaves of absence as follows:

- (1) Exempt and NENB employees may be granted a leave of absence without pay by the Contractor.
- (2) For employees granted a medical leave of absence:
  - (a) Group insurance will be continued, for a period not exceeding twelve (12) months.
  - (b) Sick leave credits accrue only for the first thirty (30) days of absence.
  - (c) Vacation credits accrue for a period not exceeding twelve (12) months provided the employee returns to work within the twelve (12) month period.
  - (d) Vacation credits accrue only for the first thirty (30) days of absence if the employee is determined to be unable to return to work within the twelve (12) month period.
- (3) For exempt employees granted a leave of absence without pay in order to pursue their education in a job-related or needed skill course of study, group insurance will be continued for a period not to exceed twelve (12) months. The Contractor shall require participating employees to sign a service agreement stating his/her commitment to remain employed by the Contractor for a specific period of time. These agreements shall require the employee to commit to one (1) month of employment with the Contractor for every one (1) month the employee is on leave of absence. The employee's commitment will begin after they have returned to work. In the event such employee does not fulfill the conditions of his/her agreement, the Contractor shall use its best efforts in a cost efficient manner to recover from the

employee the premium cost of the insurance and refund or credit the amount so recovered to the Government.

- (4) For personal and educational leave, recognized Contractor service credit, vacation, and sick leave will accrue to the employee only during the first thirty 30 days of leave.

1. Severance Pay.

- (1) The following severance pay provisions will apply to exempt and NENB employees:

- (a) Disqualification for Benefits.

- No employee (1) who is offered employment at comparable pay and benefits by another facility, subsidiary or affiliate of the Contractor, (2) who is offered employment at comparable pay and benefits by a replacement employer, (3) who resigns, (4) who is discharged, or (5) who retires, shall be eligible for severance pay under this Contract.

- (b) Pay Schedules.

- 1) An exempt or NENB employee laid off due to (1) a reduction in force, (2) job elimination, or (3) refusal to accept a job at a lower rate of pay as a result of a reduction in force or job elimination shall be eligible to receive severance pay with the maximum available award as follows:

<u>Service Credit</u>	<u>Severance Pay</u>
6 months but less than 1 year	Pro-rated
1 year but less than 2 years	1 week
2 years but less than 4 years	2 weeks
4 years but less than 6 years	4 weeks
6 years but less than 8 years	6 weeks
8 years but less than 10 years	8 weeks
10 years but less than 12 years	10 weeks
12 years but less than 14 years	12 weeks
14 years but less than 16 years	14 weeks
16 years but less than 18 years	16 weeks
18 years or more	18 weeks

- 2) NENB employees will also be eligible for severance pay in the event a NENB employee is terminated because of his/her inability, as deemed by the Contractor, to perform the essential functions of his/her job.
- 3) Employees terminated due to business decisions (i.e., subcontracting activities historically performed by the management and operating Contractor), may be eligible for severance pay based on the following:
  - a) If employees are not offered a position with the subcontractor, they are eligible to receive up to one hundred percent (100%) of the severance pay as provided on the severance schedule outlined above; or
  - b) If employees are offered a position with the subcontractor at reduced pay, affected employees shall be eligible to receive severance pay in accordance with the following:
    - 1) Employees who realize less than a ten percent (10%) reduction in base pay shall not be eligible for any severance pay.
    - 2) Employees who realize between a ten percent (10%) to fourteen point ninety-nine percent (14.99%) reduction in base pay shall receive up to twenty-five percent (25%) of the severance pay identified on the severance schedule outlined above.
    - 3) Employees who realize between a fifteen percent (15%) to nineteen point

ninety-nine percent (19.99%)  
reduction in base pay shall  
receive up to fifty percent  
(50%) of the severance pay  
identified on the severance  
schedule outlined above.

4) Employees who realize  
between a twenty percent  
(20%) to twenty-four point  
ninety-nine percent (24.99%)  
reduction in base pay shall  
receive up to seventy-five  
percent (75%) of the  
severance pay as identified on  
the severance schedule  
outlined above.

5) Employees who realize a  
twenty-five percent (25%) or  
more reduction in base pay  
shall receive up to one  
hundred percent (100%) of the  
severance pay as identified on  
the severance schedule  
outlined above.

(2) Pay in Lieu of Notice.

- (a) Normally, exempt or NENB employees subject to a reduction in force will be given at least two (2) weeks notice. The Contractor may pay the employee at his/her base pay for two (2) weeks in lieu of notice.
- (b) In the event the Contractor allows an exempt employee to resign with notice and, as deemed by the Contractor, the services of such employee cannot be productively utilized during the period of notice or if his/her presence at the work site during the notice period is not desired, the Contractor may pay the employee at his/her base pay for two (2) weeks in lieu thereof.

- (c) In providing pay in lieu of notice, the provisions of the Worker's Adjustment Retraining Notification (WARN) Act will be considered, as appropriate.

m. Participation in Civic Affairs.

The Contractor may authorize employees to participate in civic affairs. The salaries, wages, and fringe benefits of employees while engaged in such approved activities will be treated as allowable costs. The total amount of time devoted to civic activities by Contractor employees shall not exceed two thousand eighty (2,080) hours in any fiscal year.

n. Plant Shutdown.

In unusual circumstances where it is impossible or impractical for employees to report for work due to inclement weather, or where, due to inclement weather, it is deemed to be in the best interest of employee safety to close the Plant and/or send employees home early, the Contractor shall pay exempt employees their full salary for any workweek in which he/she performs any work for the Contractor and may authorize full pay for NENB employees upon concurrence by the Contracting Officer.

o. Work Apparel.

The Contractor, in some instances, provides employees with special shoes, safety glasses, goggles, clothing, and/or other apparel due to the nature of certain types of work. The Contractor provides Firefighters, guards, cafeteria and other employees with clothing such as specified uniforms, foul weather gear and badges. The cost of these items, including but not limited to laundry or similar service, due to nature of the work performed under this Contract, is allowable.

p. Voting Time.

Each employee who is registered to vote may, at his/her request, be allowed time off with base pay not to exceed two (2) hours, unless additional time is required by law, on a scheduled workday for voting in local, state, and national elections in accordance with state or local law.

q. Worker's Compensation.

The costs associated with the Contractor's Workers' Compensation Insurance Policy, as approved by the DOE, are allowable. In cases of job-incurred illness or injury of an exempt or NENB employee which is compensable under the Workers' Compensation Law, sick leave, if available, may be used to make-up the difference between Workers' Compensation payment and the employee's regular net take-home pay (base pay less Federal Income Tax Withholding (FITW) and FICA).

r. Old Age, Survivor's, and Disability Insurance and Unemployment Compensation.

Legally required contributions to Old Age, Survivor's and Disability Insurance and to Unemployment Compensation programs shall be allowable costs under this Contract. All unemployment costs directly associated with this Contract, including any costs arising from the expiration or termination of this Contract, are allowable.

s. Adjusted Service Credit.

Employees who were employed with the previous Contractor will get an adjusted service date that includes time worked with the previous Contractor at the Pantex Plant site for the purpose of determining eligibility and vesting for vacation, severance pay, eligibility to participate in the 401(k) plan and the pension plan, entitlement to retiree medical benefits, and entitlement to early retirement benefits and early commencement of deferred vested benefits under the pension plan.

III. LABOR RELATIONS.

A. Policy/Objectives.

1. It is the objective of the BWXT Pantex labor relations program to pursue collective bargaining practices that promote efficiency and economy in Contract operations, judicious expenditure of public funds, and effective labor management relationships.
2. The terms and conditions set forth in collective bargaining agreements between the Contractor and recognized bargaining agents for its employees assigned to work under this Contract constitute the allowable costs for bargaining unit employees' compensation and benefits for reimbursement by DOE. The following collective bargaining agreements are incorporated by reference:
  - a. Articles of Agreement between BWXT Pantex, Pantex Plant, Amarillo, Texas and Metal Trades Council of Amarillo, Texas and Vicinity, A.F. of L. - C. I. O.
  - b. Articles of Agreement between BWXT Pantex and the Pantex Guards Union. **(RA #4)**
3. Expenses, including contracted legal counsel expenses, related to grievance processing and settlement, arbitration and arbitration awards, litigation involving actions related to collective bargaining, and other associated expenses including costs of meeting rooms, presentation equipment and materials, meals and room allowances for Company bargaining representatives related to collective bargaining are allowable costs.
4. Expenses associated with employee representation activities are allowable costs.

B. Labor Relations Program.

The Contractor shall:

1. Develop and implement labor relations programs that promote effective collective bargaining relationships, efficiency and economy in operations, and the judicious expenditure of public funds.
2. Comply with all applicable laws and regulations in the administration of its labor relations program.

3. Review its bargaining objectives with DOE and receive DOE approval for economic parameters prior to entering negotiations with a bargaining unit regarding economic collective bargaining issues. Such established economic parameters may be modified during the course of negotiations only with DOE approval.
4. Consult with the Contracting Officer prior to and during the course of negotiations with labor unions, and during the terms of resultant contracts, on economic issues and other matters that have a potentially significant impact on make-or-buy decisions or other matters affecting efficiency or economy of operations.

IV. MISCELLANEOUS HUMAN RESOURCES PROGRAMS.

A. Policy/Objectives.

The purpose of the Contractor Miscellaneous Human Resources Programs is to facilitate the achievement of organizational objectives and to support the business strategies of the Contractor and DOE. The programs are designed to provide competitive plans/features necessary to attract, retain, and motivate a competent workforce. Miscellaneous Human Resources Program costs directly attributable to the programs provided to Contractor employees, as well as reasonable administrative costs, will be allowable under this Appendix A. The programs shall be:

1. Designed and administered in a cost effective manner.
2. Designed and administered in a manner that provides equal access to all employees.
3. Compliant with all applicable laws and regulations.

B. Miscellaneous Human Resource Programs.

The Contractor shall:

1. Prior to implementation, obtain DOE approval for proposed changes to the provisions of any miscellaneous human resource program that result in increased costs.
2. Apply the provisions of the Miscellaneous Human Resources Programs as follows:

a. Contractor Training.

(1) Internal Training.

Internal training programs may include, but are not limited to, orientation, job training, supervisory training, and executive development. Such training programs may be conducted during an employee's scheduled workday or after working hours. An employee who participates in training after working hours will normally not be paid for hours of attendance. However, nonexempt employees who are required by the Contractor to attend such classes shall be paid at the applicable premium rate. Reasonable costs of in-house

training, including necessary equipment, material and instructor personnel are allowable.

(2) External Training.

The Contractor may send an appropriate number of employees to technical meetings, professional society meetings, seminars, conferences, and other specialized training courses when, in the opinion of the Contractor, participation at such functions may contribute to the performance of the work under this Contract. Employees participating in such functions will receive their regular salaries or wages. Travel expenses, including registration and enrollment fees, lodging, conference meals, and other necessary and related conference expenses will be allowed when authorized by the Contractor.

b. Educational Assistance.

(1) Employees may be refunded one hundred percent (100%) of books, tuition costs including lab and other such fees, and other costs related to satellite delivery and interactive video systems. If an employee is eligible to receive educational assistance under any other source, such other benefits to which employee is entitled will be deducted in determining employee's eligibility to receive any benefits under the Contractor's Educational Assistance Program. Reimbursement of costs will be subject to the following conditions:

- (a) Courses are taken outside of paid working hours.
- (b) Courses are related to the employee's current position or to another position within the Contractor's organization to which the employee may reasonably be moved or related to a degree program with a direct relationship to the employee's career path with the Contractor. Contractor employees who are enrolled in an approved degree program covered by the provisions of the Educational Assistance Program at implementation of this Appendix A will be 'grandfathered', such degree programs may or may not be related to the employee's current job or job

within his/her current career path, as allowed prior to the revision to this Appendix.

- (c) An employee is eligible to enter the Tuition Assistance Program on the first day of employment with BWXT Pantex.
  - (d) Each course shall be approved by the General Manager or an authorized committee. Courses may only be taken at an accredited institution of higher learning.
  - (e) Reimbursement of funds shall be provided for tuition, lab fees, other such fees directly related to enrollment in a course, the cost of required textbooks and similar necessary expenses, but does not include transportation, meals, and like ancillary expenses.
  - (f) The allowance provided for herein shall be paid to an employee after completion of each semester session or term, provided that the employee shall have submitted evidence authenticated by the educational institution certifying that a grade of "C" or its equivalent or better was received by such employee in each course for which reimbursement is sought.
  - (g) If an employee withdraws from a course because of a Contractor directed job or shift transfer, because of involuntary entry into military service, or for some other reason beyond his/her control, the employee may be reimbursed for that portion of tuition not refunded by the educational institution.
  - (h) Voluntary termination of service with the Contractor prior to completion of the course will void any previous approvals of tuition refund.
- (2) In addition to the training programs outlined in Paragraph (1) of Section B.2.a., which are normally conducted as regular continuing personnel activities, the Contractor may utilize appropriate facilities of the Plant to conduct training programs for its employees, whereby the instructor and employee (student-trainee) are on their own time. Such programs, offered on a voluntary basis as a convenience

fringe benefit item, will be designed to further employee development through courses of self-study and/or enrollment in fully-accredited college-level courses.

c. Workforce Retraining.

The National Defense Authorization Act, Section 3161, will be used to establish the requirements and objectives in planning and implementing workforce retraining at the Pantex Plant. All costs associated with workforce retraining under the parameters of the Act are to be treated as allowable costs under the Contract. Such retraining programs require Contracting Officer approval prior to implementation.

d. Professional Fees, Dues, Licenses, and Certifications.

The Contractor may provide reimbursement to employees who obtain a professional license or certification granted by state or national certification agencies. The total amount of reimbursement under the Contract will not exceed \$65,000 in any fiscal year. **(RA #13)**

e. Memberships.

(1) Costs incurred as a result of participation in the activities of technical and professional associations will be allowed, when such participation is beneficial to the work under this Contract and does not interfere significantly with the employee's primary work assignment under this Contract. Where possible, the Contractor shall obtain corporate memberships.

(2) The costs allowed are as follows:

(a) Salaries earned while participating in these activities.

(b) Registration fees for attendance at conventions, conferences, expositions, and other meetings; such fees to include only the minimum requirements for attendance.

(c) Travel expenses connected with the attendance mentioned above; such expenses to be in accordance with the approved travel policies stated elsewhere in Appendix A.

- (d) Incidental costs of materials and services incurred in preparing papers and reports related to making presentations and/or attendance at conventions, conferences, expositions, and other meetings.

f. Diversity.

- (1) The Contractor shall develop and implement an annual plan for the accomplishment of DOE requirements regarding diversity.
- (2) The plan shall address, at a minimum, the Contractor's approach for obtaining diversity in the areas of (1) work force utilization, (2) educational outreach, (3) community involvement and outreach, (4) subcontracting, and (5) technology transfer.

g. Personnel Temporarily Assigned to Contract Work.

The cost associated with Corporation employees not employed under the Contract, borrowed for incidental work under this Contract, is reimbursable. Reimbursement for the time such employees work under this Contract will be allowable in accordance with the employee's regular work location's government-approved operating disclosed costing practices. Time worked under this Contract for such borrowed employees will include the time spent by the employees enroute to and returning from the worksite on the first and last day of such work. Travel cost of such borrowed personnel will be allowed in accordance with the travel policies which are contained elsewhere in this Appendix A. Upon request of the Contracting Officer, a report of corporate assignments to the Pantex Plant will be provided.

h. Personnel Temporarily Assigned From Contract Work. **(RA#14)**

- (1) Corporate Assignments - The Contractor may loan, at no cost to the government, individuals working under this Contract to other operations of its corporation, as long as it does not interfere with the performance of Contract work. Upon request of the Contracting Officer, a report of personnel temporarily loaned from the Pantex Plant will be provided.
- (2) DOE/NNSA Assignments – Contract personnel assigned to work for DOE/NNSA at another location for more than 30

days may receive the same work/holiday schedule as the site where temporarily assigned.

i. Authorized Return Moves of Employees (From the Burlington and Medina site)

(1) In connection with the return of any employee and their dependents to their former home from which such original transportation was allowed or to a location of equivalent distance (when the Contractor determines that such employee's services from the former Burlington site are no longer required) the following are applicable items of allowable costs, for those employees who transferred to Pantex Plant prior to July 1, 1975.

- (a) Actual cost for transportation of an employee and their dependents will be allowed in accordance with the travel and relocation policies which are contained elsewhere in this Appendix A.
- (b) Reasonable costs of transporting household goods and personal effects, including pets and including insurance, packing and handling charges but not storage will be allowed in connection with authorized moves.

The foregoing provisions shall not be applicable when the Contractor transfers an employee to other than contract work, or when an employee is charged for cause, or voluntarily terminates except when approved by the Contracting Officer.

(2) Return movement of dependents and household goods and effects provided under paragraph (1) above must be completed within sixty (60) days immediately following the termination of an employee.

j. Service Recognition.

(1) An employee who has completed not less than five (5) years of satisfactory service with the Contractor shall be eligible for a service award. The service awards shall be distributed on five (5)-year increments of continuous service and the average cost of each such award shall not exceed fifty-five dollars (\$55). **(RA #2)**

- (2) Upon retirement, employees with twenty (20) or more years of service shall be presented an award in recognition of their employment and years of service. The cost of such retirement recognition shall not exceed one hundred seventy-five dollars (\$175) per individual. **(RA #1)**

k. Award Programs.

The Contractor may establish award programs that encompass ideas/initiatives for improvement in areas such as, but not limited to, environment, safety, health, security, time expended, cost, quality, performance methods, welfare, morale, and/or energy conservation.

(1) Employee Recognition Awards.

- (a) The Contractor may provide awards for the following reasons:

- 1) Employees who initiate innovative methods of improving processes, security, costs, safety and health, and performance methods.
- 2) Employees who demonstrate innovations in scientific and/or engineering fields.
- 3) Employees who have performed at an exceptional level of performance.
- 4) Extra Mile Awards. **(RA #4)**

- (b) The costs of this awards program will be allowable not to exceed in any fiscal year an amount derived by multiplying the previous fiscal year ending base payroll by point one two percent (.12%).

(2) Employee Referral Program.

The Employee Referral Program allows BWXT Pantex employees to receive monetary awards not to exceed two thousand dollars (\$2,000) for referring select difficult to recruit critical skills to work at Pantex. **(RA #2)**

l. Business Expense Program.

- (1) The Business Expense Program will be available to all employees, without discrimination, and may include the following types of expenditures: Sports equipment and supplies, trophies and awards, and individual and league entrance fees.
- (2) The costs of the above programs will be allowable not to exceed in any fiscal year an amount derived by multiplying the monthly average number of employees for the preceding year by fifteen dollars (\$15.00).

m. Medical Examinations and Drug Testing.

- (1) The Contractor may provide routine industrial pre-employment and termination medical examinations and routine drug testing.
- (2) The Contractor will conduct and maintain, consistent with applicable DOE Orders, programs of periodic medical examinations for employees during the course of their employment under this Contract.
- (3) Medical facilities shall be furnished to provide medical examinations as outlined above, for temporary care of employees in the event of occupational injuries and to provide relief for minor physical complaints of employees while at work; provided, however, that for non-job-incurred injuries and illnesses the medical facilities will not be used as a substitute for an employee's obtaining medical care and treatment for which an employee is personally responsible.

n. Employee Assistance Program (EAP).

The Contractor will provide an Employee Assistance Program consistent with requirements of the Department of Transportation's procedures for Transportation Workplace Drug and Alcohol Programs, and the recommendations of the Workplace Substance Abuse Program for DOE sites and the Texas Workers' Compensation Act of 1990. This program will offer a professional, confidential (to the extent feasible regarding security interests) source of assistance to employees and members of their immediate families who need assistance with personal problems.

o. Credit Union Activities.

The Contractor may furnish certain services for an employee-sponsored credit union. The Contractor is authorized to provide office space, utilities, janitorial services, office furniture and equipment, if reasonably available. Employees, as officers and committee members of the employee-sponsored credit union, may be allowed a reasonable amount of on-the-job time to conduct credit union business, as well as the clerical and administrative services incidental to processing properly authorized payroll deductions.

p. Employee Publications.

The Contractor is authorized to publish and/or provide to its employees one (1) Corporate publication and such local employee newsletters or other publications as may be mutually agreed upon between the Contractor and DOE.

q. Recruitment and Recruitment Advertising Expenses.

Reasonable and necessary costs incurred in the recruitment of personnel, including expenditures for attracting qualified women and minority candidates; expenses for help wanted advertising; employment offices; travel of employees on recruiting assignments; preparation of booklets and other recruiting material; and with prior approval of the DOE, the use of employment agencies or executive search organizations at rates not in excess of standard commercial rates, shall be allowable.

r. Defense of Employees Involved in Work-related Claims and Legal Actions.

(1) If a claim or legal action is brought against an employee as the result of his or her conduct when performing duties under this Contract and within the employee's scope of employment, the Contractor shall be allowed the cost of defending the employee, including appeals and cost of any judgment; provided, however, that the prior approval of the Contracting Officer and the consent of the employee to be defended shall be obtained before any such defense is undertaken.

- (2) The provisions of the Contract article entitled “Litigation and Claims” shall have the same application to claims and legal actions against employees under this Section as it has to those claims and legal actions which are brought directly against the Contractor. Before costs of any retained legal counsel may be allowed, the selection of such counsel must have the concurrence of the Contracting Officer.
- (3) When involved in any claim or legal action covered by this Section, an employee may, with the prior approval of the Contracting Officer, be allowed time off with base pay on scheduled workdays for consultation with counsel, trial attendance, and such other matters as are reasonably incident to the claim or legal action.

s. Fellowship Program.

- (1) Costs incurred as a result of participation in the Pantex Plant Fellowship Program will be allowed. The Contracting Officer will review and approve the initial Fellowship Program prior to implementation.
- (2) The costs are allowed as followed:
  - (a) Salaries earned while participating in the Program.
  - (b) Fringe benefits provided to the Program participants.
  - (c) Educational Assistance expenses associated with Program participation; such expenses to be in accordance with the approved Educational Assistance policies stated elsewhere in this Appendix A.
- (3) The Contractor shall obtain DOE approval for proposed changes to the Fellowship Program prior to implementation.

t. Travel and Relocation.

- (1) Travel costs shall be allowable to the extent they are incurred in accordance with DEAR 970.3102-05-46 and FAR 31.205-46. Travel-related costs and travel costs associated with relocation for lodging, meals, and incidental expenses shall be reasonable and allowable to the extent they do not exceed the maximum per diem rates in effect at the time of travel set

forth in the Federal Travel Regulations, prescribed by the General Services Administration. The parties agree to amend this provision if and when new FAR and/or DEAR provisions are published pursuant to the Federal Acquisition Streamlining Act.

- (2) Relocation expenses will be allowable subject to the provisions, limitations and exclusions of FAR 31.205-35.

SCHEDULE I

PRINCIPLES AND PROCEDURES FOR ACCOUNTING AND  
RECONCILIATION OF DOE FUNDING OBLIGATIONS

A. Background.

The adoption of these principles and procedures shall not be deemed nor are they intended to create rights in third parties nor abrogate existing rights of third parties including Plan Members employed under Contract No. DE-AC04-00AL66620.

B. Scope.

These principles and procedures for financial settlement of pension funding obligations, as specified in paragraphs E. and F. below, shall apply with respect to the Plan. References to termination in these principles are intended to cover the circumstances created either when the Contract expires or when performance of work is terminated in accordance with Clause 81 (check on this reference) of the Contract entitled "Termination." The term "date of termination" means the date of expiration of the Contract term as extended and/or the effective date of termination as provided in said Clause.

C. General Procedures.

1. DOE agrees to fund for the Contract term, the pension cost, at the contribution rates established from time to time by an enrolled actuary retained by the Contractor, for Plan Members performing contract service.
2. The Contractor agrees to make its best effort to provide DOE with annual actuarial valuation reports within six months following the end of the Plan year. Such reports shall conform to ERISA valuation standards and contain information regarding Contract Service Assets and Liabilities associated with contract service under the Plans and an analysis of the Gains & Losses during the plan year. Included as Liabilities shall be Liabilities for Active Members, Terminated Vested Members, Survivors of Members, and Pensioners.
3. Unless otherwise agreed, the enrolled actuary retained by the Contractor will conduct an actuarial valuation of a Plan Termination basis as of the date of disaffiliation of Pantex Plant from the Contractor. DOE agrees to pay the cost of such valuation.

D. Procedures for Annual Accounting of DOE-Funded Contractor Contributions to the Plan.

For each plan year, the Contractor will provide to DOE an accounting of Contract Service Assets as follows:

1. Contract Service Assets at the beginning of the plan year;
2. The DOE-funded Contractor contributions made during the plan year;
3. Employee contributions made during the plan year;
4. The amount of investment income during the plan year at the dollar-weighted rate of return for the Plan. The dollar-weighted rate of return shall account for monthly cash flows and shall take into account both realized and unrealized appreciation;
5. Benefits disbursed on account of contract service during the plan year;
6. Plan administrative expenses for the plan year on account of contract service;
7. Contract Service Assets at the end of the plan year = (1) + (2) + (3) + (4) - (5) - (6).

The annual accounting shall include the accrual basis market value of such Contract Service Assets as of January 1, 1987 and as of the end of each plan year thereafter. The DOE Contractor shall establish the initial market value of Contract Service Assets for January 1, 1987.

For the plan year beginning January 1, 1987, and ending December 31, 1987, and annually thereafter, the Contractor will provide to DOE an accounting of Contract Service Assets as described above.

Such reports shall be provided to DOE within seven months following the close of the plan year. The final accounting period shall end with the date of disaffiliation.

8. Funding Requirements
  - a. Contributions to a trust during a plan year for a separate defined benefit pension plan shall be limited by the greater of:
    - (1) the minimum contribution required in Section 302 of the Employee Retirement Income Security Act (ERISA) and
    - (2) the amount estimated to eliminate the unfunded current liability as projected to the end of the plan year. The term “unfunded current liability” shall refer to the unfunded current liability as defined in

Section 302(d)(8) of ERISA. Contributions above the minimum shall require approval by the Department and shall be supported with adequate justification.

- b. The DOE funding policy is intended to be congruent with the basic objectives of the CAS and will generally result in funding consistent with the CAS. If this policy causes a temporary, technical inconsistency with the CAS, the contractor shall immediately notify the cognizant Contracting Officer and Chief Financial Officer. The Contractor has recourse to the cost principles found at DEAR 970.3102-2(1)(2) and (3) and shall avoid penalties on that basis.

E. Procedures for Final Determination of Plan Assets and Liabilities.

1. Contract Service Assets. Contract Service Assets shall be the accrual basis market value of Contract Service Assets attributable to DOE-funded Contractor contributions, as determined above. (Those Contract Service Assets allocated to benefits already purchased under Contracts 1248 or 639 will be reflected at contract (book) value. All remaining Contract Service Assets not allocated to benefits already purchased will be reflected at market value.)
2. Contract Service Liabilities.
  - a. No Successor Contractor. In the event of Contract expiration or Contract termination, all accrued benefits for those receiving benefits under the Plan, all accrued benefits for terminated vested members, and all accrued benefits for active members in service on the date of discontinuance will be purchased (thus final costs) under Contract 1248, Contract 639 or on the open market, whichever is the most cost effective to the extent advisable. The Contractor will receive DOE concurrence and approval.
  - b. With Successor Contractor. The liability for all accrued benefits under the pension plans will be transferred to the successor contractor. This will include those benefits earned prior to June 1, 1985, which have been purchased and guaranteed by Aetna Life under Contract 639 while a Deferred Annuity Contract. The Contractor will receive DOE concurrence and approval.
3. If the Contract Service Assets, as determined in Paragraph E.1., are less than the liabilities in Paragraph E.2.a., DOE shall pay the difference to BWXT Pantex, as reimbursable cost.

F. Disposition of Contract Service Assets and Contract Service Liabilities.

The parties agree that any disposition of Contract Service Assets or Liabilities upon contract termination shall be consistent with the then applicable Federal laws relating to pension plans and shall be subject to obtaining such rulings and approvals from Federal agencies as may be required by law or deemed prudent by the Contractor or DOE.

1. No Successor Contractor. Any Contract Service Assets remaining after satisfaction of all liabilities to members, former members, and their beneficiaries, pursuant to Paragraph E.2.a, will be distributed to the DOE and to employees who have made mandatory contribution as required by law provided the Contractor obtains consent of the appropriate Government agencies. Any experience credits accruing under Contracts 1248 and/or 639 will be distributed to the DOE.
2. With Successor Contractor. Contract Service Assets, will be transferred/assigned to the successor contractor's plan. (It is recognized that those Contract Service Assets guaranteeing benefits already purchased and held by Aetna under Contract 639 must remain with Aetna.) This will be accomplished by a change in plan sponsorship for the BWXT Pantex Retirement Plan for Non-Bargaining Employees and the Retirement Plan for Bargaining Unit Employees of the Metal Trades Council of the Pantex Plant of BWXT Pantex, and the Retirement Plan for Bargaining Unit Employees of the Pantex Security Force, Local No. 38, of the Pantex Plant of BWXT Pantex, with an assignment of Aetna Contract 639 to the successor contractor. Any such change of Plan sponsorship shall occur only upon DOE approval and upon contractor filing of the necessary IRS forms. If any subsequent IRS determination results in a detrimental financial impact on Account 04, DOE will reimburse the Contractor in full.

If, pursuant to ERISA or any other law or regulation, the maximum amount which can be transferred by or to the Successor Plans is less than the amount of the respective liabilities, only such lesser amount shall be transferred, and the difference shall be paid by DOE to the plan(s) designated by the Contractor or by the Contractor to the Successor Plans, as the case may be, together with simple interest at the then current rate which the Secretary of the Treasury establishes for interest payments under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) as such rate is published from time to time in the Federal Register.

G. Right to Records.

Pursuant to Clauses 20 and 56, the Contractor agrees to provide to DOE such records and worksheets which DOE deems necessary to substantiate the calculations and dispositions of this Section.

H. Responsibility for Federal Excise Taxes.

If the Plan incurs a federal excise tax resulting from any action or inaction of the Contractor or its deputies or fiduciaries, the Contractor shall pay such excise tax.

If the Plan incurs a federal excise tax resulting from any action or inaction of the prior contractor, DOE or its deputies, DOE shall pay such excise tax.