ANL-71-COM (September 14, 2016)

APPENDIX A
ARGONNE TERMS AND CONDITIONS
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1. ACCEPTANCE (OCT 1999)

Acceptance of this Purchase Order or contract (hereinafter called the "contract")must be in accordance with and strictly limited to these Terms and Conditions. An attempted acknowledgment or acceptance which contains provisions conflicting or additional to these Terms and Conditions or which varies any term or condition shall have no force or effect. Performance by the contractor without an effective acknowledgment shall be deemed to be performance in accordance with the Terms and Conditions of this contract.

2. INSPECTION (OCT 1999)

The contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Laboratory reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Laboratory may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Laboratory must exercise its post acceptance rights (a) within a reasonable time after the defect was discovered or should have been discovered; and (b) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

3. ASSIGNMENT (OCT 1999)

Neither this contract nor any interest therein nor claim there under shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory; provided, that the contractor or its assignee's rights to be paid amounts due as a result of performance of this contract may be assigned to a bank, trust company or other financing institution, including any Federal lending institution. The Laboratory may assign this contract to a successor operator of the Laboratory.

4. CHANGES (OCT 1999)

Changes in the Terms and Conditions of this contract may be made only by written agreement of the parties.

5. EXCUSABLE DELAYS (OCT 1999)

The contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Laboratory, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The contractor shall notify the Laboratory in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Laboratory of the cessation of such occurrence.

6. PAYMENTS (FEB 2004)

(a) Payment shall be made for items accepted by the Laboratory that have been delivered to the delivery destinations set forth in this contract. Upon the submission of proper invoices or vouchers, the Laboratory shall make payment at the prices stipulated in this contract by check, electronic funds, or as the parties may otherwise agree. In connection with any discount offered for early payment, time shall be computed from the date the invoice is received at the Laboratory. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the date on which an electronic funds transfer was made.

(b) Property.
   (1) Property shall mean all tangible personal property as identified in Argonne Form PD-150, Control of Government Property – Contractor Requirements, in the section entitled, "IDENTIFICATION" that has been purchased by the contractor in the performance of the contract for which cost the contractor is entitled to be reimbursed as a direct item of cost under this contract or for which the contractor has included the cost for such property in the fixed price charged to the Laboratory.
   (2) All INVOICES submitted under contracts which contain Argonne Form PD-150, Control of Government Property – Contractor Requirements, shall be accompanied by the completed form entitled, Argonne National Laboratory Subcontract Property Management Government Property Acquisition Record, ANL-661.

   THE LABORATORY WILL NOT ISSUE PAYMENT UNLESS A COMPLETED FORM ANL-661 IS INCLUDED WITH ALL INVOICES (REGARDLESS IF PROPERTY IS BEING INVOICED ON A PARTICULAR INVOICE OR NOT.)

(c) Submission of Transportation Documents
   (1) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid –
      (A) By the Contractor and added to the invoice for contractor supplied goods and/or services.
      (B) By a first-tier subcontractor and added to the invoice for contractor supplied goods and/or services
   (2) Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding $200. Bills under $200 shall be retained on-site by the Contractor and made available for on-site audits.
   (3) Contractors shall submit the above referenced transportation documents with Contractor's invoice to - Argonne National Laboratory, 9700 South Cass Avenue, Accounts Payable Building 201, Lemont, IL 60439

7. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, written notification of the bankruptcy to the Laboratory Procurement Official responsible for administering the contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for all Laboratory contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

8. RISK OF LOSS (OCT 1999)

Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the contractor until, and shall pass to the Laboratory upon:
(a) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
(b) Delivery of the supplies to the Laboratory at the destination specified in the contract, if transportation is f.o.b. destination.

9. TAXES (OCT 1999)

The contract price includes all applicable Federal, State, and local taxes and duties.

10. TERMINATION FOR THE LABORATORY'S CONVENIENCE (OCT 1999)

The Laboratory reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the contractor can demonstrate to the satisfaction of the Laboratory using its standard record keeping system, have resulted from the termination. The contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Laboratory any right to audit the contractor's records. The contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

11. TERMINATION FOR CAUSE (OCT 1999)

The Laboratory may terminate this contract, or any part hereof, for cause in the event of any material default by the contractor, or if the contractor fails to comply with any contract terms and conditions, or fails to provide the Laboratory, upon request, with adequate assurances of future performance. In the event of termination for cause, the Laboratory shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the Laboratory for any and all rights and remedies provided by law. If it is determined that the Laboratory improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

12. CONTRACTS FOR MATERIALS, SUPPLIES, ARTICLES, AND EQUIPMENT EXCEEDING $15,000 (MAY 2014)

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount that exceeds or may exceed $15,000, and is subject to 41 U.S.C. chapter 65 , the following terms and conditions apply:

(a) All stipulations required by 41 U.S.C. chapter 65 and regulations issued by the Secretary of Labor (41 CFR Chapter 50) are incorporated by reference. These stipulations are subject to all applicable rulings and interpretations of the Secretary of Labor that are now, or may hereafter, be in effect.

(b) All employees whose work relates to this contract shall be paid not less than the minimum wage prescribed by regulations issued by the Secretary of Labor (41 CFR 50-202.2). Learners, student learners, apprentices, and workers with disabilities may be employed at less than the prescribed minimum wage (see 41 CFR 50-202.3) to the same extent that such employment is permitted under section 14 of the Fair Labor Standards Act (41 U.S.C. 6508).

13. TITLE (OCT 1999)

Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Laboratory takes physical possession.

14. WARRANTY OF SUPPLIES (OCT 2015)

The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
Energy Consuming Products
When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the contractor will specify or deliver EnergyStar ® qualified products or products conforming to the Federal Energy Management Program's (FEMP) Energy Efficiency Requirements, whichever may be applicable, provided products with such a designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for EnergyStar ® at:

http://www.energystar.gov/products
http://www.eere.energy.gov/femp/procurement/eep_requirements.cfm
Refrigeration Equipment and Air Conditioners: when the contract requires refrigeration equipment or air conditioners the contractor shall comply with requirements 608 and 609 of the Clean Air Act (41USC 7671g and 7671h).
When the contract requires the specification or delivery of imaging equipment (i.e. copiers, digital duplicators, facsimile machines, mailing machines, multifunction devices, printers, or scanners, the clause at FAR 52.223-13, Acquisition of EPEAT ®-Registered Imaging Equipment (JUN 2014) shall apply.
When the contract requires the specification or delivery of televisions, the clause at FAR 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) shall apply, or it's Alternate I.
When the contract calls for the specification or delivery of personal computer products, the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) shall apply.
In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (http://www.epa.gov/greeningepa/practices/eo13423.htm) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (http://www.archives.gov/federal-register/executive-orders/disposition.html). The Contractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic Performance. This guide includes information concerning recycled content products, bio-based products, energy efficient products, water efficient products, alternative fuels and vehicles, non ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at: http://energy.gov/sites/prod/files/23.0_EO_13514_Federal_Leadership_in_Environment%2C_Energy%2C_and_Economic_Performance_0.pdf

15. WARRANTY OF SERVICES (MAY 2001)

(a) Definitions. "Acceptance," as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services , as partial or complete performance of the contract.

(b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Laboratory Procurement Official shall give written notice of any defect or nonconformance to the Contractor...[Laboratory Procurement Official shall insert the specific period of time in which notice shall be given to the Contractor; e.g., "within 30 days from the date of acceptance by the Laboratory,"; within 1000 hours of use by the Laboratory;" or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time]. This notice shall state either (1) that the Contractor shall correct or reperform any defective or nonconforming services, or (2) that the Laboratory does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Laboratory Procurement Official may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Laboratory thereby, or make an equitable adjustment in the contract price.
(d) If the Laboratory does not require correction or reperformance, the Laboratory Procurement Official shall make an equitable adjustment in the contract price.

16. BUY AMERICAN—SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause—
"Commercially available off-the-shelf (COTS) item"—
(1) Means any item of supply (including construction material) that is—
(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
(ii) Sold in substantial quantities in the commercial marketplace; and
(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.
"Component" means an article, material, or supply incorporated directly into an end product.
"Cost of components" means—
(3) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
(4) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
"Domestic end product" means—
(1) An unmanufactured end product mined or produced in the United States;
(2) An end product manufactured in the United States, if—
(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or
(ii) The end product is a COTS item.
"End product" means those articles, materials, and supplies to be acquired under the contract for public use.
"Foreign end product" means an end product other than a domestic end product.
"United States" means the 50 States, the District of Columbia, and outlying areas.
(b) 41 U.S.C. chapter 83, Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1)).
(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.
(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the Representations and Certifications for the solicitation entitled "Buy American Certificate."

17. LIMITATION OF LIABILITY (OCT 1999)

Except as otherwise provided by an express or implied warranty, the contractor will not be liable to the Laboratory for consequential damages resulting from any defect or deficiencies in accepted items.

18. CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (OCT 2010)

The contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or executive orders applicable to acquisitions of commercial items:
(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.
(ii) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1,500,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
(iii) [Reserved]
(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).
(v) 52.222-35, Equal Opportunity for Veterans (JUL 2014) (38 U.S.C. 4212).
(vi) 52.222-36, Affirmative Action for Workers with Disabilities (JUL 2014) (29 U.S.C. 793).
(vii) [Reserved]
(viii) 52.222-41, Service Contract Act of 1965, (Nov 2007), (41 U.S.C. 351, et seq.).
(ix) 52.222-50, Combating Trafficking in Persons (MAR 2015) (22 U.S.C. 7104(g)). __ Alternate I (AUG 2007) of 52.222-50 (22 U.S.C. 7104(g)).
(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (FEB 2009) (41 U.S.C. 351, et seq.).
(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (Nov 2007) (41 U.S.C. 351, et seq.).
(xii) 52.222-54, Employment Eligibility Verification (August 2013).
(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (MAR 2009) (Pub. L. 110-247). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (February 2006) (46 U.S.C. Appx 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.
(xv) 52.225-1 Buy American Act-Supplies (MAY 2014) 41 U.S.C. 10 and 431

19. OTHER COMPLIANCES (OCT 1999)

The contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

20. ENVIRONMENTAL PROTECTION (OCT 1999)

In performing this contract the contractor shall comply with the requirements set forth in all applicable Federal and non-Federal environmental protection laws, codes, ordinances, Executive Orders, regulations and directives.

21. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, *days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either
(1) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or
(2) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries.
Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).
* The Laboratory Procurement Representative shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).
(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Laboratory Procurement Representative or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall —
(1) Be submitted in writing;
(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and
(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.
(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government or the Laboratory shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.
(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

22. AUTHORIZATION AND CONSENT (DEC 2007)

The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent
(1) embodied in the structure or composition of any article the delivery of which is accepted by the Laboratory or the Government under this contract or
(2) used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with
(i) specifications or written provisions forming a part of this contract or
(ii) specific written instructions given by the Laboratory or the Government directing the manner of performance.
The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

23. PATENT INDEMNITY - SUPPLIES AND SERVICES (APR 1984)

(a) The Contractor shall indemnify the Laboratory, the Government and their officers, agents, and employees against liability, including costs, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of the manufacture or delivery of supplies, the performance of services, or the construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government or the Laboratory of such supplies or construction work.
(b) This indemnity shall not apply unless the Contractor shall have been informed as soon as practicable by the Government (with notice to the Laboratory) of the suit or action alleging such infringement and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in its defense. Further, this indemnity shall not apply to:
(i) An infringement resulting from compliance with specific written instructions of the Laboratory or the Government directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the Contractor;
(ii) An infringement resulting from addition to or change in supplies or components furnished or construction work performed that was made subsequent to delivery or performance; or
(iii) A claimed infringement that is unreasonably settled without the consent of the Contractor, unless required by final decree of a court of competent jurisdiction.

24. REFUND OF ROYALTIES (AUG 2002)

(a) During performance of this Contract, if any royalties are proposed to be charged to the Laboratory or the Government as costs under this Contract, the Contractor agrees to submit for approval of the Government through the Laboratory, prior to the execution of any license, the following information relating to each separate item of royalty:
(1) Name and address of licensor;
(2) Patent numbers, patent application serial numbers, or other basis on which the royalty is payable;
(3) Brief description, including any part or model numbers of each contract item or component on which the royalty is payable;
(4) Percentage or dollar rate of royalty per unit;
(5) Unit price of contract item;
(6) Number of units;
(7) Total dollar amount of royalties; and
(8) A copy of the proposed license agreement.
(b) If specifically requested by the Government through the Laboratory, the Contractor shall furnish a copy of any license agreement entered into prior to the effective date of this clause and an identification of applicable claims of specific patents or other basis upon which royalties are payable.
(c) The term "royalties" as used in this clause refers to any costs or charges in the nature of royalties, license fees, patent or license amortization costs, or the like, for the use of or for rights in patents and patent applications that are used in the performance of this contract or any subcontract hereunder.
(d) The Contractor shall furnish to the Government through the Laboratory, annually upon request, a statement of royalties paid or required to be paid in connection with performing this Contract and subcontracts hereunder.

(e) For royalty payments under licenses entered into after the effective date of this Contract, costs incurred for royalties proposed under this paragraph shall be allowable only to the extent that such royalties are approved by the Government. If the Government determines that existing or proposed royalty payments are inappropriate, any payments subsequent to such determination shall be allowable only to the extent approved by the Government.

(f) Regardless of prior Government or Laboratory approval of any individual payments or royalties, the Government may contest at any time the enforceability, validity, scope of, or title to a patent for which the Contractor makes a royalty or other payment.

(g) If at any time within 3 years after final payment under this contract, the Contractor for any reason is relieved in whole or in part from the payment of any royalties to which this clause applies, the Contractor shall promptly notify the Government through the Laboratory of that fact and shall promptly reimburse the Government for any refunds received or royalties paid after having received notice of such relief.

(h) The Contractor agrees to include, and require inclusion of, this clause, including this paragraph (h), suitably modified to identify the parties in any subcontract at any tier in which the amount of royalties reported during negotiation of the subcontract exceeds $250.

25. NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 2002)

The provisions of this clause shall be applicable only if the amount of this contract exceeds $100,000.

(a) The Contractor shall report to the Government through the Laboratory, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) If any person files a claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, when requested by the Government or the Laboratory, all evidence and information in possession of the Contractor pertaining to such suit or claim. Except where the Contractor has agreed to indemnify the Government or the Laboratory, the Contractor shall furnish such evidence and information at the expense of the Government.

(c) The Contractor agrees to include, and require inclusion of, this clause suitably modified to identify the parties, in all subcontracts at any tier expected to exceed $100,000.

26. SUBCONTRACTS FOR COMMERCIAL ITEMS (FEB 2016)

(a) *Definitions*. As used in this clause-
"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.
"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial items:
(i) 52.203-13, Contractor Code of Business Ethics and Conduct (OCT 2015) (41 U.S.C. 3509), if the subcontract exceeds $5,500,000. and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.
(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.
(iii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $700,000. ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
(iv) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
(v) 52.222-26, Equal Opportunity (APR 2015) (E.O. 11246).
(vi) 52.222-35, Equal Opportunity for Veterans (OCT 2015) (38 U.S.C. 4212(a));
(vii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).
(viii) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212)
(ix) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.
(x) (A) 52.222-50, Combating Trafficking in Persons (MAR 2015)
(xi) 52.222-55, Minimum Wages under Executive Order 13658 (Dec 2015).
(xii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
(xiii) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013), if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.
(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

27. UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014)

(a) Definitions. As used in this contract-
"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
"Service-disabled veteran-owned small business concern"-
(1) Means a small business concern-
(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and
(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).
"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.
"Small disadvantaged business concern", consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that-
(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-
(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and
(ii) Each individual claiming economic disadvantage has a net worth not exceeding $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.
"Veteran-owned small business concern" means a small business concern-
(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
(2) The management and daily business operations of which are controlled by one or more veterans.
"Women-owned small business concern" means a small business concern-
(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
(2) Whose management and daily business operations are controlled by one or more women.

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(d) (1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.
(2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the System for Award Management database or by contacting the SBA. Options for contacting the SBA include-
(i) HUBZone small business database search application web page athttp://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm; or http://www.sba.gov/hubzone;
(ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or
(iii) The SBA HUBZone Help Desk at hubzone@sba.gov.

28. PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEC2013)

(a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

29. LABORATORY SITE ACCESS AND /OR PARTICIPATION IN ACTIVITIES BY NON-U.S. NATIONALS (DEC 2004)

Site Access
Site access, including cyber access utilizing a Laboratory account, by all non-U.S. citizens must be reviewed and approved by the Laboratory Director or his designee. All new requests must be submitted on Form ANL-593. Non-U.S. citizens are either visitors (on site for 30 days or less) or assignees (on site for more than 30 days in a 12-month period). A certified host must be assigned for each visit or assignment. Form ANL-593 should be submitted as far in advance as possible (a minimum of 30 days for a sensitive assignment, 7 days for a non-sensitive country assignment or visit or sensitive visit.)
For assignments (more than 30 days) involving a foreign national from a "Sensitive Country", and/or access to a security area of the Laboratory or access to a sensitive subject, at least 30 days advance notice should be provided to ensure that Security, Counterintelligence, and Export Control reviews can be accomplished, and a DOE indices check can be completed prior to approval. In such cases, a specific security plan is required to be submitted to the Foreign Visits and Assignments Office with the ANL-593 form requesting the visit by the Hosting Division. An indices check normally takes 30 days after completion of all required pre-clearance documents, but can take considerably longer (once obtained, an indices check is valid for two years).
For visits or assignments involving a foreign national from a "Terrorist Supporting Country", (which currently include: Cuba, Iran, Libya, North Korea, Sudan, Syria), specific approval of the visit/assignment by the Secretary of Energy or his designees is required. This approval, if granted, may take up to one year after the internal approvals have been processed.
The time frames indicated above shall not constitute the basis for any equitable adjustment or claim to the contract price or performance/delivery period.
For assistance in preparing a request, contact the Argonne Technical Investigator associated with your activity.
Activity Participation
Due to Department of Energy directives and Department of Commerce regulations, persons who are born in (and who are not naturalized U. S. Citizens) or are citizens of any "Terrorist Supporting Country" may be denied access and/or participation in activities with Argonne National Laboratory.
The requirement is to be flowed-down to all subcontractors at any tier.

30. COMPLIANCE WITH EXPORT CONTROL LAWS AND REGULATIONS (NOV 2015)

(a) The Contractor shall comply with all applicable U.S. export control laws and regulations.

(b) The Contractor's responsibility to comply with all applicable laws and regulations exists independent of, and is not established or limited by, the information provided by this clause.

(c) Nothing in the terms of this contract adds to, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive Orders, and regulations, including but not limited to—
  (1) The Atomic Energy Act of 1954, as amended;
  (2) The Arms Export Control Act (22 U.S.C. 2751 *et seq.*);
  (3) The Export Administration Act of 1979 (50 U.S.C. app. 2401 *et seq.*), as continued under the International Emergency Economic Powers Act (Title II of Pub. L. 95-223, 91 Stat. 1626, October 28, 1977; 50 U.S.C. 1701 *et seq.*);
  (4) Trading with the Enemy Act (50 U.S.C. App. 5(b), as amended by the Foreign Assistance Act of 1961);
  (5) Assistance to Foreign Atomic Energy Activities (10 CFR part 810);
  (6) Export and Import of Nuclear Equipment and Material (10 CFR part 110);
  (7) International Traffic in Arms Regulations (ITAR) (22 CFR parts 120 through 130);
  (8) Export Administration Regulations (EAR) (15 CFR parts 730 through 774); and
  (9) Regulations administered by the Office of Foreign Assets Control (31 CFR parts 500 through 598).

(d) In addition to the Federal laws and regulations cited above, National Security Decision Directive (NSDD) 189, National Policy on the Transfer of Scientific, Technical, and Engineering Information establishes a national policy that, to the maximum extent possible, the products of fundamental research shall remain unrestricted. NSDD 189 provides that no restrictions may be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, except as provided in applicable U.S. statutes. As a result, contracts confined to the performance of unclassified fundamental research generally do not involve any export-controlled activities.

NSDD 189 does not take precedence over statutes. NSDD 189 does not exempt any research from statutes that apply to export controls such as the Atomic Energy Act, as amended; the Arms Export Control Act; the Export Administration Act of 1979, as amended; or the U.S. International Emergency Economic Powers Act; or the regulations that implement those statutes (*e.g.,* the ITAR, the EAR, 10 CFR part 110 and 10 CFR part 810). Thus, if items (*e.g.,* commodities, software or technologies) that are controlled by U.S. export control laws or regulations are used to conduct research or are generated as part of the research efforts, the export control laws and regulations apply to the controlled items.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in all solicitations and subcontracts

31. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and/or information being transmitted under the performance of this contract may be subject to U.S. Government laws and regulations regarding export or re-export. This includes deemed exports which are any communication of technical data to a foreign national, whether it takes place in the United States or abroad. Technical information (data) provided to a foreign national verbally, by mail, by telephone or facsimile, through visits or workshops, or through computer networking is an export. If a foreign national observes equipment or a process, it may constitute an export of technical data, if significant details are revealed. It is solely the contractor's obligation to obtain all appropriate export licenses, keep required records, and comply fully with all export control statutes and regulations. Unless authorized by appropriate government license or regulation, contractor agrees not to export directly or indirectly any technology, software or materials provided by the Laboratory. Contractor shall be solely liable for any violation of export control statutes or regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

32. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2002)

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is excepted from U.S. export control regulations, the Laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls.
An export can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their country are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technologies.
Prior to transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:

- Fundamental research and information resulting from fundamental research
- Published information and software (publicly available) education information
- Patent applications

If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export.
To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, keep the following guidelines in mind that without having acquired an export license prior to your trip, presentations and discussions must be limited to only those topics that are not on the DOE Sensitive Subjects List and the Argonne Sensitive Technologies and not related to controlled items or technologies unless they are in the public domain. Further elaboration, or additional details, may be considered an export of technologies and need an export license prior to release.

33. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) The contractor shall comply with the requirements of the "DOE Contractor Employee Protection Program" at 10CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.
(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

34. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (APR 2014)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908
(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

35. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)

All information technology acquired under this Agreement shall include the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology' website at http://checklists.nist.gov.

36. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

Applies To Contracts That Exceed $35,000 In Value

(a) Definition. "Commercially available off-the-shelf (COTS)" item, as used in this clause—
  (1) Means any item of supply (including construction material) that is—
    (i) A commercial item (as defined in paragraph (1) of the definition in FAR 2.101);
    (ii) Sold in substantial quantities in the commercial marketplace; and
    (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
  (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.
(b) The Government suspends or debars Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of $35,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.
(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed $35,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:
  (1) The name of the subcontractor.
  (2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.
  (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.
  (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.
(e) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—
  (1) Exceeds $35,000 in value; and
  (2) Is not a subcontract for commercially available off-the-shelf items.

37. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

In the event a Government or Laboratory vehicle (including Laboratory-rented vehicle) will be utilized by the contractor during the course of work under this contract, contractor agrees to obtain and maintain appropriate levels of automobile liability coverage for property damage and bodily injury and such insurance shall be primary.

38. ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

(a) Definitions. As used in this clause—
  "Driving"–
  (1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
  (2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.
  "Text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.
(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009.
(c) The Contractor is encouraged to—
  (1) Adopt and enforce policies that ban text messaging while driving—
    (i) Company-owned or -rented vehicles or Government-owned vehicles; or
    (ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
  (2) Conduct initiatives in a manner commensurate with the size of the business, such as—
    (i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
    (ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
(d) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

39. INTEGRATION CLAUSE (OCT 1999)

This contract represents the full understanding of the parties and is the entire agreement between the parties. All negotiations between the parties have been merged into the contract and there are no understandings or agreements other than those incorporated into this contract.

40. PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

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

"Gender identity" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.
"Segregated facilities," means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.
"Sexual orientation" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

41. EQUAL OPPORTUNITY (APR 2015)

(a) *Definition*. As used in this clause.
"Gender identity" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.
"Sexual orientation" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.
"United States," means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. This shall include, but not be limited to-
(i) Employment;
(ii) Upgrading;
(iii) Demotion;
(iv) Transfer;
(v) Recruitment or recruitment advertising;
(vi) Layoff or termination;
(vii) Rates of pay or other forms of compensation; and
(viii) Selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

42. EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

43. EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

(a) Definitions. As used in this clause—
"Active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," "qualified disabled veteran," and "recently separated veteran" have the meanings given at FAR 22.1301.

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

44. EMPLOYMENT REPORTS VETERANS (FEB 2016)

(a) Definitions. As used in this clause, "active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," and "recently separated veteran," have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on—
(1) The total number of employees in the contractor's workforce, by job category and hiring location, who are protected veterans (i.e., active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans);
(2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (i.e., active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans); and
(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by filing the VETS-4212 "Federal Contractor Veterans' Employment Report" (see "VETS-4212 Federal Contractor Reporting" and "Filing Your VETS-4212 Report" at http://www.dol.gov/vets/vets4212.htm).

(d) The Contractor shall submit VETS-4212 Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12–month period preceding the ending date selected for the report. Contractors may select an ending date—
(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or
(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-4212.The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor..

45. NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

Applies To Contracts That Exceed $10,000 In Value

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the national Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).
(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contact.
(2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be—

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;
(2) Provided by the Federal contracting agency if requested;
(3) Downloaded from the Office of Labor-management Standards Web site at http://www.dol.gov/olms/regs/compliance/EO13496.htm ; or
(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4 Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) Subcontracts.
(1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds $10,000 and will be performed wholly or partially in the Unites States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.
(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.
(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.
(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor ma request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

46. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496: (APR2010)

(APPLIES TO CONTRACTS EQUAL TO OR GREATER THAN $10,000)

Federal contractors and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector. See 29 CFR Part 471. The notice, prescribed in the Department of Labor's regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively with their employers and to engage in other protected concerted activity. Additionally, the notice provides examples of illegal conduct by employers and unions, and it provides contact information to the National Labor Relations Board (www.nlrb.gov), the agency responsible for enforcing the NLRA. Federal contractors and subcontractors are required to post the prescribed employee notice conspicuously in plants and offices where employees covered by the NLRA perform contract-related activity, including all places where notices to employees are customarily posted both physically and electronically.
Obtaining Copies of the Notice of Employee Rights
Executive Order 13496 Notice of Employee Rights, in Adobe Reader (.pdf) format, can be downloaded from the link:

http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf

If you are not able to download the notice, or if you seek a hard copy of the notice, you can send a request to olms-public@dol.gov or call (202) 693-0123. Contractors may also reproduce and use exact duplicate copies of the official notice.

- Notice of Employee Rights Under Federal Labor Laws - 11x17-inch one-page format (PDF)
- Notice of Employee Rights Under Federal Labor Laws - 11x8.5-inch two-page format (PDF)

47. TECHNICAL STANDARDS PROGRAM (FEB 2011)

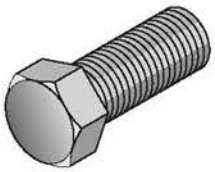
This article applies if any Contractor personnel participate in development, review or selection activities related to DOE Technical Standards.

1. In the performance of this contract, the Contractor, when participating in the development of Department of Energy (DOE) Technical Standards, conducting technical standards review activities, and selecting technical standards for use to support assigned DOE missions and functions, must:
2. Select, use, and adhere to appropriate voluntary consensus standards (VCSs), except where use of VCSs is inconsistent with law or impractical. (Note: VCSs are defined as standards developed or adopted by voluntary consensus standards bodies, both domestic and international.)
3. Participate as appropriate in development and review of those DOE Technical Standards where the contractor has technical or programmatic interests, or will be affected by the content of DOE Technical Standards under development, or as directed by the Contracting Officer.
4. Designate and provide support for a coordinator for technical standards activities, including identification of the appropriate Subject Matter Experts to review draft DOE Technical Standards.
5. Report participation in VCS activities conducted in support of DOE missions and functions through the Laboratory Technical Standards Manager in The Office of Contract Administration (COA). [use Form DOE F 1300.2 (05/2010)],
6. Flow down this requirement to subcontractor(s) at any tier to the extent necessary to ensure the contractor's compliance with these requirements.

48. SUSPECT COUNTERFEIT PARTS (DECEMBER 2007)

Notwithstanding any other provisions of this agreement, the contractor warrants that all items provided to the Laboratory shall be genuine, new and unused unless otherwise specified in writing by the Laboratory. Contractor further warrants that all items used by the contractor during the performance of work at the Argonne National Laboratory include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the contractor shall indemnify the Laboratory, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failure.
Types of material, parts, and components known to have been misrepresented include (but are not limited to) fasteners; hoisting, rigging, and lifting equipment; cranes; hoists; valves; pipe and fittings; electrical equipment and devices; plate, bar, shapes, channel members, and other heat treated materials and structural items; welding rod and electrodes; and computer memory modules. The contractor's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Laboratory. In addition, because falsification of information or documentation may constitute criminal conduct, the Laboratory may reject and retain such information or items, at no cost, and identify, segregate, and report such information or activities to cognizant Department of Energy officials.

Suspect/Counterfeit Bolt Headmark List



Any bolt on this list should be treated as defective without further testing.

All Grade 5 and Grade 8 fasteners of foreign origin which do not bear any manufacturers' headmarks:

Grade 5

Grade 8

Grade 5 fasteners with the following manufacturers' headmarks:

MARK	MANUFACTURER
J	Jinn Her (TW*)

MARK	MANUFACTURER
KS	Kosaka Kogyo (JP)

Grade 8 fasteners with the following manufacturers' headmarks:

	MARK	MANUFACTURER
A	A	Asahi Mfg. (JP)
NF	NF	Nippon Fasteners (JP)
H	H	Hinomoto Metal (JP)
M	M	Minamida Sieybo (JP)
MS	MS	Minato Kogyo (JP)
△	Hollow Triangle	Infasco (CA, TW, JP, and YU) (Greater than 1/2-inch diameter)
E	E	Daiei (JP)

	MARK	MANUFACTURER
KS	KS	Kosaka Kogyo (JP)
RT	RT	Takai Ltd. (JP)
FM	FM	Fastener Co. of Japan (JP)
KY	KY	Kyoei Mfg. (JP)
J	J	Jinn Her (TW)
UNY	UNY	Unytite (JP)

Grade 8.2 fastener with the following headmark:

MARK	MANUFACTURER
KS	Kosaka Kogyo (JP)

Grade A325 fasteners (BENNETT DENVER TARGET ONLY) with the following headmarks:

Type 1 Type 2 Type 3

MARK	MANUFACTURER
A325 KS	Kosaka Kogyo (JP)

Headmarkings are usually raised – sometimes indented.

*KEY: CA-Canada, JP-Japan, TW-Taiwan, YU-the former Yugoslavia