# APPENDIX A

## ARGONNE TERMS AND CONDITIONS

(For Non-Commercial Awards Of $10,000 And Over)

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1. ACCEPTANCE (OCT 1999)

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

2. PAYMENTS (FEB 2004)

(a) The Laboratory shall pay the contractor, upon the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified in this contract, payment shall be made on partial deliveries accepted by the Laboratory:

(1) The amount due on the deliveries warrants it;

(2) The contractor requests it and the amount due on the deliveries is at least $1,000 or 50 percent of the total contract price.

(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 a copy of the transportation documents and any supporting documentation with Contractor’s invoice to - Argonne National Laboratory, 9700 South Cass Avenue, Accounts Payable Building 201, Lemont, IL 60439.

3. 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.

4. DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

(a) Applicability...

This clause applies to all contracts (except for commercial items) in excess of $500,000.

(b) Definition.

Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligible criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the position is available.

(c) Consistent with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that it will provide a preference in hiring an eligible employee to the extent practicable for work performed under this contract.

(d) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 402) expected to exceed $500,000.

5. COVENANT AGAINST CONTINGENT FEES (MAY 2014)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain the contract upon an agreement or understanding that for a contingent fee, to induce a Government employee or agency to give consideration or to act regarding a Government contract or any basis other than the merits of the matter.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor’s supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration to or to act regarding a Government contract on any basis other than the merits of the matter.

6. EQUAL OPPORTUNITY (MAR 2007)

(a) Definition. "United States," as used in this clause, 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) 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 contract value in excess of $50,000, the Contractor shall comply with the requirements 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.

(c) 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 religious activities (41 CFR 60.14(b)).

(d) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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 accordance with federal employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60.14(b).

(e) 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, or national origin. This clause shall, but not be limited to --

(i) Employment;

(ii) Upgrading;

(iii) Promotion;

(iv) Transfer;

(v) Recruitment or recruitment advertising;

(vi) Layoff or termination;

(vii) Rules of pay or other forms of compensation, and

(viii) Selection, training, and other apprenticeship, employment.

(f) 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.

(g) 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, or national origin.

(h) 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 contractors commitment under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(j) The Contractor shall furnish to the contractor 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 120 (EO-1), or any successor form 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.

(k) 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 pending compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(l) 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 under Executive Order 11246, as amended, in the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

(m) 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 the contractor and its successors.

(n) 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.

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

7. EMPLOYMENT REPORTS VETERANS (JUL 2014)

(a) Definitions. As used in this clause, "Armed Forces service medal veteran," "disabled veteran," "active duty wartime or campaign badge 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 disabled veterans, other protected veterans (i.e., active duty wartime or campaign badge veterans), Armed Forces service medial 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 disabled veterans, other protected veterans (i.e., active duty wartime or campaign badge veterans), Armed Forces service medial 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 completing the Form VETS-100A, entitled “Federal Contractor Veterans’ Employment Report” (VETS-100A Report).

(d) The Contractor shall submit VETS-100A 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 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-100A. The contractor’s knowledge, 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 $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

8. EQUAL OPPORTUNITY FOR VETERANS (JULY 2014)

(a) Definitions. As used in this clause—

“Active duty wartime or campaign badge veteran,” “Armed Forces service medial veteran,” “disabled veteran,” “protected 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 $100,000 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.

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

Appplies 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 their offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including places where employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and 471.3.

(b) 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 contract.

(c) 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’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 Information About Employee Rights, to be provided pursuant to the National Labor Relations Act.”

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


(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor-Market Standards Web site at www.dol.gov/olmsregs/compliance/poster.html or www.dol.gov/olmsregs/compliance/posterlogging.html for any field office or the Department of Labor’s Web site for any field office;

(4) Reproduced and used as exact duplicate copies of the Department of Labor’s official poster;

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

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

(f) In the event 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 41 CFR 60.8.
except that any requirement for verification of new employees applies only to new employees assigned to the contract.

4. Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of:

(i) Enrollment in the E-Verify program; or
(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a U.S. Citizenship and Immigration Services official.

(ii) During the period between termination of the MOU and a decision by the suspension or sepation official determined not to suspend or debar, the Employer will be excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the contract shall continue.


(d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employees—

(i) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(ii) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or


(e) Subcontracts. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract—

(i) For—

(1) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally performed in an E-Verify environment);

(2) Construction;

(3) Include services performed in the United States.

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

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal employment 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 issued in excess of $50,000 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.

13. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(Appplies to contracts exceeding $100,000 (including all options))

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) for any facility that—

(1) Is a manufacturing, processing, or otherwise using any toxic chemicals listed in 40 CFR 372.65;

(2) Has 10 or more full-time employees as specified in section 313(b)(1)(A) of Title 42 of Title 42 U.S.C. 1321b, as amended (the SCTMR).

(b) The Contractor does not meet the reporting thresholds of toxic chemicals established under section 313(b)(1)(A) of Title 42 of Title 42 U.S.C. 1321b, as amended (the SCTMR).

(c) The facility does not fall within Standard Industrial Classification (SIC) codes or categories under section 313(b)(1)(A) of Title 42 of Title 42 U.S.C. 1321b, as amended (the SCTMR).

(d) The Contractor has no other arrangements with other contractors to include a solicitation provision substantially the same as the provision at FAR 52.223-15, Certification of Toxic Chemical Release Reporting, and

(e) Include in any resultant subcontract exceeding $100,000 (including all options), the substance of this clause, except this paragraph (e).

14. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, prior to the close of business on the day prior to completion of any sampling required by this contract of, items containing—

(i) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or

(ii) Other radioactive materials requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.002 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 material, and any other information which will put users of the items on notice as to the hazards involved (OMB No. 0000-1001).

15. PREFERENCE FOR U.S. FLAG AIR CARRIERS (JUN 2003)

(a) Definitions. As used in this clause—international air transportation means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"U.S. flag carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 441.

"International air transportation" means transportation (personnel or property) from a place in the United States to a place outside the United States, or between two places both of which are outside the United States.

(b) Applicability. This clause applies to all Federal government programs, projects, and activities of the Department of Defense and all Federal agencies which either fund, manage, or use in the performance of their programs, projects, and activities (except those funded by the National Aeronautics and Space Administration) air transportation in international air transportation service.

(c) Contractor's obligation. The Contractor shall—

(i) File with the laboratory procurement representative, on or before the date of award of contract, an amendment to the performance work statement, as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA requirements of this clause, except this paragraph (e).

(ii) Continue to file the annual Form R for the life of the contract for such facility.

(d) The Laboratory Procurement Representative may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Notice to the Contractor. If the Laboratory Procurement Representative determines to terminate the contract under paragraph (e) of this clause, the Contractor shall—

(i) For competitive subcontracts expected to exceed $100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting, and

(ii) Include in any resultant subcontract exceeding $100,000 (including all options), the substance of this clause, except this paragraph (e).

16. PREFERENCE FOR PRIVATELY OWNED U.S. — FLAG COMMERCIAL VESSELS (FEB 2006)

(a) Except as provided in paragraph (b) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Sections 7389, 7389(a), 7389(b)(1)(A), and 7389(b)(1)(A)(ii)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk and liquid cargo) between a place in the United States and a place outside the United States, as required by the latest revision of MIL-STD-129 in effect on the date of the contract.

(b) The Contractor shall submit one legible copy of a rated-on-board ocean bill of lading for each shipment to both—

(i) The Contracting Officer, and

(ii) The Office of Cargo Preference, Maritime Administration (MAR-590), 400 Seventh Street, SW, Washington, DC 20590.
SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

a. This clause does not apply to small business concerns.

(e) The requirement in paragraph (a) does not apply to

i. Carriers carried in vessels or as required by law or treaty;

ii. Transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353);

iii. Classifications of vessels when the classification prohibits the use of the non-Government vessels;

iv. Subcontracts or purchase orders for the acquisition of commercial items unless—

A. This contract—

i. A contract or agreement for ocean transportation services; or

ii. A construction contract; or

B. The supplying being transported are—

i. Items the Contractor is selling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontract items for f.o.b. destination shipment); or

ii. Not shipped in direct support of a military contingency operations; or

C. Exercises; or

D. Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations;

(f) Guidance regarding fair and reasonable prices for privately owned U.S.-flag commercial vessels may be obtained from the

Office of Costs and Rates
Maritime Administration
400 Seventh St.
Washington, DC 20590
Phone: 202-366-3234

17. APPLICABLE LAW (OCT 1999)

To the extent that Federal law does not exist and State law could become applicable to this contract, the law of Illinois shall apply.

18. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

This clause does not apply to small business concerns.

a. Definitions. As used in this clause—

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 161, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626 (e)(2).

“Commercial item” means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

“Commercial item subcontracting plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the offeror’s commercial item contracts, commercial item subcontracted items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).


“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sika, and Kodiak as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 43 U.S.C. 1452(e).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master plan” means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the prime or subcontract.

b. The offeror, upon request by the Laboratory Procurement Official, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business concerns, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and with women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant solicitation. The subcontracting plan shall be negotiated within the time specified by the Laboratory Procurement Official. Failure to submit a subcontracting plan that complies with the requirements of paragraph (b) of this clause shall render any small business offeror ineligible for award of a contract.

c. The offeror’s subcontracting plan shall include the following:

i. Goals. Expressed in terms of percentages of total planned subcontracting dollars for the

A. The sale of small business, service-disabled veteran-owned small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. The offeror shall include all subcontractors that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business

(SDB) concerns, regardless of the size of Small Business Administration certification status of the ANC or Indian tribe.

ii. Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC and Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and/or SDB concerns. A subcontractor with the above-mentioned ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and/or SDB concerns. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

iii. The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in accordance with the prime Contractor's and ANC or Indian tribe within 30 days of the date of the subcontract award.

iv. If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe shall be considered the designated Contractor.

2. A statement of

i. Total dollars planned to be subcontracted for an individual contract plan; or

ii. The offeror's prime sales report representing the total value of projected subcontracts to support the sales for a commercial plan;

iii. Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

iv. Total dollars planned to be subcontracted to veteran-owned small business concerns;

v. Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

vi. Total dollars planned to be subcontracted to HUBZone small business concerns;

vii. Total dollars planned to be subcontracted to small disadvantaged business concerns;

viii. Total dollars planned to be subcontracted to women-owned small business concerns;

ix. Description of the method used to develop the subcontracting goals in paragraph (b)(1) of this clause.

3. A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the System for Award Management (SAM), veteran service organizations, the National Minority Purchasing Council Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm rely on information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

4. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with

i. Small business concerns (including ANC and Indian tribes);

ii. Veteran-owned small business concerns;

iii. Service-disabled veteran-owned small business concerns;

iv. HUBZone small business concerns;

v. Small disadvantaged business concerns;

vi. Women-owned small business concerns.

5. The name of the Small Business prime contractor who will administer the offeror's subcontracting program, and a description of the duties of the individual.

6. A description of the efforts the offeror will make to ensure small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

7. A description of the types of records that will be maintained concerning procedures

i. Small business concerns;

ii. Veteran-owned small business concerns;

iii. Service-disabled veteran-owned small business concerns;

iv. HUBZone small business concerns;

v. Small disadvantaged business concerns;

vi. Women-owned small business concerns.

8. A description of the method used to develop the subcontracting goals in paragraph (b)(1) of this clause.

9. A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the System for Award Management (SAM), veteran service organizations, the National Minority Purchasing Council Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm rely on information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small business, service-disabled veteran-owned small business, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

10. A plan similar to the plan that complies with the requirements of this clause.

11. A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists, and a description of the offeror's efforts to locate
small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide, project-by-project basis, or if contracts are awarded to multiple contractors): Source lists (e.g., SAM, guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns). Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns. Records on each subcontractor resulting in an award of more than $150,000, indicating: A. Whether small business concerns were solicited and if not, why not; B. Whether veteran-owned small business concerns were solicited and if not, why not; C. Whether service-disabled veteran-owned small business concerns were solicited and if not, why not; D. Whether HUBZone small business concerns were solicited and if not, why not; E. Whether small disadvantaged business concerns were solicited and if not, why not; F. Whether women-owned small business concerns were solicited and if not, why not; and G. If applicable, the reason award was not made to a small business concern.

v. Records of any outreach efforts to contact— A. Trade associations; B. Business development organizations; C. Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and D. Veterans service organizations.

vi. Records of internal encouragement and guidance provided to buyers through— A. Workshops, seminars, training, and counseling; B. Monitoring to ensure compliance with the program's requirements.

vii. On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

d. In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following: A. Submit the master plan for the award of the contract; B. The master plan shall include evidence of its approval, to the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

1. Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules as to facilitate the participation of such concerns. Where the Contractor's list of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

2. Provide adequate and timely consideration of the potentials of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

3. Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

4. Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by SAM database or by contacting SBA.

5. Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part of or to be awarded in full to the prime contractor if the contractor has been awarded the Government contract. The Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a subcontracting item. A subcontractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. The report shall be acknowledged or rejected by eSRS by the Contracting Officer who approved the plan. This report shall be submitted semi-annually during the Government's fiscal year.

6. Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

7. A contract may have no more than one plan. When a modification meets the criteria in 19.702(b) for an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontracting plan.

8. Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contractor Furnishing Service-Disabled Veteran-Served, on the front page of the contract. The subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

9. The failure of the Contractor or subcontractor to comply in good faith with—

   a. The clauses of this contract entitled "Utilization Of Small Business Concerns;" or
   b. An approved plan required by this clause, shall be a material breach of the contract.

k. The Contractor shall submit ISRs and SSRs using the web-based eSRS at http://www.esrs.gov. Purchases from a company, corporation, or subcontractor that is a affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data are submitted for all subcontract awards even if they are awarded under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor. The acceleration of payments to 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, at receipt of a proper invoice and all other required documentation from the small business subcontractor, shall not provide any new rights under the Prompt Payment Act.

l. The Contractor or subcontractor shall provide in good faith with—

   a. The contract at 52.212-2, Competition for Small Disadvantaged Businesses, under which the contract is awarded, or under which the contract is to be awarded.

m. The contract at 52.212-3, Small Disadvantaged Business Concerns, under which the contract is awarded, or under which the contract is to be awarded.

n. The report to be submitted semi-annually during the Government's fiscal year.

o. The Government, the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for small businesses under the United States or its government agencies should be appropriately allocated.

1. ISR. This report is not required for commercial plans. The report is required for each subcontract containing an subcontracting plan.

   a. The report shall be submitted semi-annually during the Government's fiscal year and be required for each contract with small business concerns, including subcontracts with small business concerns for the second option. For example, for a contract submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

   b. The authority to acknowledge or reject the ISR resides with—

      A. The contracting officer, the Contractor, with the Contracting Officer; and
      B. In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

2. SSR. i. Reports submitted under individual contract plans—

   A. The report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracted work.

   B. The report may be submitted on a corporate, company or subdivision (e.g., plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

   C. If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a single CRS is submitted to each executive covering only that agency's contracts, provided at least one of that agency's contracts is over $650,000 (over $1.5 million for contracts performed by military departments). The report shall be submitted within 30 days of the close of each reporting period.

   D. For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and September 30. For civilian agencies, except NASA, the report shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

   E. Subcontract awards that are related to work for more than one executive agency or awarding agency may be reported in CRSs.

   F. The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contract unless stated otherwise in the contract.

   ii. Reports submitted under a commercial plan—

   A. The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

   B. The report shall be submitted semi-annually, within thirty days after the end of the Government's fiscal year.

   C. If the contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for subcontracting plans were obtained.

   D. The authority to acknowledge or reject SSRs for commercial plans resides with the contracting officer.

   E. All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. The data are not available when the year-end SSR is submitted, the Prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

19. PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

(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 to 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, shall not provide any new rights under the Prompt Payment Act.

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

20. NOTICE TO THE LABORATORY OF LABOR DISPUTES (OCT 1999)

(a) If the contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the contractor shall immediately notify the contracting officer and the Service-Disabled Veteran-Served, the next higher tier subcontractor or the contractor, as the case may be, of all relevant information concerning the dispute.
21. REPORTS (OCT 1999)

The contractor shall furnish intermediate reports to the Laboratory from time to time, as required by the form and number of such reports as may be required by the Laboratory. The intermediate reports delivered to the Laboratory shall contain a brief status report which will identify the persons preparing the report and the persons approving the report.

22. CHANGES (JUNE 2007)

(a) The contractor shall furnish to the laboratory any changes in the contract that are required by the progress of the work. The laboratory shall approve or disapprove any changes at any time after the contract becomes effective. The contractor shall not make any changes unless the laboratory approves the change.

(b) If the laboratory requires the contractor to perform work in a different manner or to add or delete work from the contract, the contractor shall not perform the work until the laboratory approves the change.

(c) If the Laboratory does not require correction or reperformance, the Laboratory Procurement Officer shall perform the work in an manner to the Laboratory's satisfaction.

(d) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory and shall perform the work to the Laboratory's satisfaction.

(e) The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Government a notice stating—

(1) The Contractor regards the order as a change order.
(2) The Contractor shall not be liable for loss or damage to supplies caused by the negligence of officials, agents, or employees of the Laboratory acting within the scope of their employment.

26. INSPECTION OF SERVICES (AUG 1996)

(a) Definitions. “Services,” as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Laboratory covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Laboratory during contract performance and for as long afterwards as the contract requires.

(c) The Laboratory shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Laboratory performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform to contract requirements, the Laboratory may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Laboratory may—

(1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and
(2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure that future performance conforms to contract requirements, the Laboratory may—

(1) terminate the contract for default.

27. PERMITS OR LICENSES (OCT 1999)

Except as otherwise directed by the Laboratory, the contractor shall procure all necessary permits or licenses required by federal, state, or local authorities for the performance of the contract.

28. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) 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. The Laboratory may assign the whole or any part of this contract to the Government or its assigns.

(b) The contractor shall not subcontract any portion of the work hereunder without the prior written approval of the Government. The contractor shall furnish the Laboratory with the name of the proposed subcontractor, a description of the work proposed to be subcontracted, and such other information as the Laboratory shall require.

29. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2014)

(a) Definitions. As used in this clause—

“Commercial item” has the meaning contained in Federal Acquisition Regulation 2.101, “Environmental Impact Statement” has the meaning set forth in the National Environmental Policy Act (42 U.S.C. 4331 et seq.), “Laboratory” means the party to this contract for performance and for as long afterwards as the contract requires.

(b) To the maximum 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) The Contractor shall insert the following clauses in subcontracts for commercial items:


(ii) 52.203-14, Contractor Code of Business Ethics and Conduct (Oct 2014) (41 U.S.C. 3509), if flow down is required in accordance with the Recovery Act.

(iii) 52.219-8, Utilization of Small Business Concerns (May 2014) (31 U.S.C. 637(d)(2) and (3)), if the subcontractor offers further subcontracting opportunities.

(iv) 52.219-9, Utilization of Small Business Concerns (May 2014) (31 U.S.C. 637(d)(2) and (3)), if the subcontractor offers further subcontracting opportunities.

(v) 52.222-40, Notice 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.

(vi) 52.225-60, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g)).

(xi) 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.

(xii) 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.

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

30. PROPERTY (JAN 2013)

(a) Filing and proper identification of Government property. The Laboratory reserves the right to furnish any property or services required for the performance of this contract.

(b) Title to property. Except as otherwise provided by the Laboratory Procurement Official, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Laboratory reserves the right to inspect, and to accept or reject, any item of such property. The Contractor shall make such disposition of rejected items as the Laboratory Procurement Official shall direct. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, as prescribed by the Laboratory Procurement Official. In the event that the Contractor is determined liable for the loss, destruction or damage to Government property in accordance with paragraph (h)(3) of this clause, the Contractor’s reimbursement of the cost thereof by the Laboratory, whichever first occurs, Property furnished by the Laboratory and property purchased or furnished by the Contractor, title to which vests in the Government, under this contract, shall be determined by the Laboratory Procurement Official.

(c) Identification. To the extent directed by the Laboratory Procurement Official, the Contractor shall mark and segregate in such a way, satisfactory to the Laboratory, as shall indicate its ownership by reason of affiliation to any property.

(d) Title to property. The Contractor shall make such disposition of Government property which has come into the possession or custody of the Contractor under this contract as the Laboratory Procurement Official may direct during the progress of the work or upon completion or termination of this contract. The Contractor may, if so directed, at such terms and conditions as the Laboratory Procurement Official may approve, sell, or exchange such property, or acquire such property at a price agreed upon by the Laboratory Procurement Official and the Contractor as the fair market value thereof. The amount received by the Contractor as the result of any disposition, or the agreed fair value of any such property acquired by the Contractor, shall be applied in reduction of costs allowable under this contract or shall be otherwise credited to the Contractor’s account to Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affiliation to any property.

(e) Protection of government property—management of high-risk property and classified materials. (1) The Contractor shall take all reasonable precautions, and other actions as may be directed by the Laboratory Procurement Official, in the absence of such direction, in accordance with sound business practice, to safeguard and protect the property furnished by the Laboratory, including property furnished in the performance of this contract.

(f) In addition, the Contractor shall ensure that adequate safeguards are in place, and adhered to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of the property including, but not limited to, handling, storage, movement, custody, and disposal. The Contractor shall ensure that all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Laboratory reserves the right to inspect, and to accept or reject, any item of such property. The Contractor shall make such disposition of rejected items as the Laboratory Procurement Official shall direct. Title to other property, the cost of which is reimbursable to the Contractor under this contract, shall pass to and vest in the Government upon (1) issuance for use of such property in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract, as prescribed by the Laboratory Procurement Official. In the event that the Contractor is determined liable for the loss, destruction or damage to Government property in accordance with (f)(1) of this clause, the Contractor’s reimbursement of the cost thereof by the Laboratory, whichever first occurs, Property furnished by the Laboratory and property purchased or furnished by the Contractor, title to which vests in the Government, under this contract, shall be determined by the Laboratory Procurement Official.

(g) The Contractor shall protect Government property in accordance with (f)(1) of this clause, the Contractor’s reimbursement of the cost thereof by the Laboratory, whichever first occurs, Property furnished by the Laboratory and property purchased or furnished by the Contractor, title to which vests in the Government, under this contract, shall be determined by the Laboratory Procurement Official.

(h) Government property for Government use only. Government property shall be used only for Government purposes. No Contractor or subcontractor employing laborers or mechanics shall allow authorized representatives of the Contracting Officer or Department of the Army, or the Contracting Officer, Department of the Army, the Department of the Navy, or the Department of the Air Force, as the case may be, to enter the premises where the Government property is being used, unless authorized by the Laboratory Procurement Official for the purpose of obtaining recovery.

(i) Government property for Government use only. Government property shall be used only for Government purposes.

Property Management —

1. Property Management System:

(a) The Contractor shall establish, administer, and maintain an approved property management system of accounting for and control, utilization, maintenance and management of Government property in its possession under the contract. The Contractor’s property management system shall be submitted to the Laboratory Procurement Official for approval and shall be maintained and administered in accordance with sound business practice, applicable Federal Property Management Regulations and Department of Energy Property Management Regulations, and such directives or instructions which the Contracting Officer may from time to time prescribe.

(b)(2) (Reserved)


3. The Contractor shall include this clause in all cost reimbursable subcontracts.

31. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT — OVERTIME COMPENSATION (MAY 2014)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) Violation; liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor are liable for unpaid wages and liquidated damages to employees for whom they have worked over 40 hours in any workweek unless they are paid at least 1 1/2 times the basic rate of pay for each hour worked over 40 hours.

(c) When the Contractor is required to compensate employees who have worked over 40 hours in any workweek, he shall compensate them at the rate of $10 per affected employee for each calendar day on which he employed or permitted to work over the rate of $10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards statute (found at 40 U.S.C. chapter 37).

(d) Withholding for unpaid wages. The Contractor shall withhold from the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Contractor shall withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute Payrolls and basic records.

(e) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.

(f) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (e) of this clause for the purpose of determining compliance with Government wage and hours regulations.

(g) The Contractor shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.
(e) Subcontracts. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

32. INTEGRITY OF UNIT PRICES (OCT 2010)

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.

(b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those items of supplies that will not contribute to or which it specifies will not contribute significant value to a contract.

(c) The Contractor shall insert the substance of this clause, leaving paragraph (b), in all subcontracts for other than defense articles, or other than the simplified acquisition procedures set forth in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and professional services contracts.

33. BUY AMERICAN ACT – SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause—

"Commercially available off-the-shelf (COTS) item"—

(i) Any item of supply (including construction material) that is—

(A) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) 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

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(d), such as agricultural products, petroleum and petrochemicals.

"Component" means an article, material, or supply incorporated directly into an end product.

"Cost of components" means—

(i) 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

(ii) 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 recoverable overhead costs, but excluding profit.

"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—

(A) 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.

(B) 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.

34. FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause—

"After-imposed Federal tax" means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract, that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-imposed Federal tax" means any amount of Federal excise tax or duty, except social security or other employment taxes, that the Contractor obtains or will have payable on the transactions or property covered by this contract, but which the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

"All applicable Federal, State, and local taxes and duties" means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"Applicable contract date" means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"Local taxes" includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or in part in any of those areas.

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

35. TERMINATION FOR CONVENIENCE OF THE LABORATORY (OCT 1999)

The Laboratory, by written notice, may terminate this contract, in whole or in part, when it is in the Laboratory’s interest. If this contract is terminated, the rights, duties, and obligations of the parties, including compensation to the Contractor, shall be in accordance with Part 49 of the Federal Acquisition Regulation in effect on the date of this contract.

36. DEFAULT (OCT 1999)

(a) (1) The Laboratory may, subject to paragraphs (c) and (d) below, by written notice of default to the Contractor, terminate this contract in whole or in part if the Contractor fails to—

(A) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(B) Make proper adjustments, as to dollar amount, due to any change in the contract price and take appropriate action as the Contracting Officer directs; or

(C) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(2) The Laboratory’s right to terminate this contract under subdivisions (1)(iii) and (1)(iv) above may be exercised if the contractor does not cure such failure within 10 days (or if more is authorized in writing by the Laboratory) after receipt of the notice from the Laboratory specifying the failure.

(b) If the Laboratory terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Laboratory considers appropriate, supplies or services similar to those terminated, and the contract price shall be the same for the Laboratory for any excess costs for those supplies or services. However, the contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in any other sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the contractor’s control and with no negligence on its part.

(d) If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of such default is beyond the contractor’s control and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Laboratory may require the contractor to transfer title and deliver to the Laboratory, as directed by the Laboratory, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as “manufacturing materials” in this clause) that the contractor has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Laboratory, the contractor shall also protect and preserve property in its possession in which the Laboratory or the Government have an interest.

(f) The Laboratory shall pay the contract price for completed supplies delivered and accepted, or which the contractor and the Government agree that the contractor has manufactured and delivered and accepted and for the protection and preservation of the property. The Laboratory may withhold from these amounts any sum the Laboratory determines to be necessary to protect the Laboratory against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the contractor was not in default or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the cause of the party terminating the contract.

(h) The rights and remedies of the Laboratory in this clause are in addition to any other rights and remedies provided by law or under this contract.

37. ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Prime Contractor employee," as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract.

"Prime Contractor employee," as used in this clause, means any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.
“Contractor” means an individual, corporation, company, association, authority, firm, partnership, or any other organization, whether for profit or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

“Reasonable compensation” means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

“Reasonable payment” means, with respect to professional and technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.
42. SECURITY (OCT 2013) (DEVIATION)

Responsibility, it is the Contractor's duty to protect all classified information, special nuclear material, or other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with this contract against sabotage, espionage, loss or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, return all classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter or special nuclear material is required after the completion or termination of this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or special nuclear material (in categories requiring access authorization) until an access authorization has been granted.

41. 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. 

43. 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 authorized on Form ANL-953, available in electronic format from DOE, another Federal agency, or whose access authorization may be reapplied for without a federal background investigation. DOE Site Access Clearing House on ANL-995, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).

In collecting and using this information to make a determination as to whether it is appropriate for a DOE employee or contractor to have access to any DOE classified or unclassified DOE computer systems (including the DOE network) with respect to pre- and post-award of employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, any organization or individual, the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act or equivalent state laws.

In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 707.4. All positions requiring access authorizations are deemed testing designated positions in accordance with 10 CFR Part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence of their system of any illegal drug.

If an uncleared applicant or uncleared employee receives an offer of employment from DOE on the basis of a DOE access authorization, the Contractor shall not place that individual in a position requiring a DOE access authorization. The Contractor shall not place that individual in a position requiring access authority unless their tests confirm the absence from their system of any illegal drug.

A review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

If an uncleared applicant or an uncleared employee to meet the individual for a position requiring a DOE access authorization, (1) a review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct legal and criminal checks when such checks are prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in any jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.
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 the 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.

44. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and/or information being transmitted under the 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 (a foreign national, whether it takes place in the United States or abroad), or any physical transfer of technology (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 a protected object, or if he or she constitutes an export of technical data, significant details are revealed. It is solely the contractor's obligation to obtain all appropriate export licenses, keep required records, and comply, prior to the export control statute and the regulations. Unless authorized by the U.S. government license or regulation, contractor agrees not to directly or indirectly make any technology, software or materials provided by the Laboratory. Contractor shall be solely liable for any such contract violations. The contractor shall maintain, and the Laboratory shall abide by, all of the export control laws and regulations to ensure its compliance with the controls. An export can occur through a variety of means, including oral communications, written documentation, or the use of computer software to foreign nationals. Technology transfers to foreign nationals that are providing export-related services or materials to Argonne National Laboratory or other foreign nationals, are not exempt. The contractor is directly responsible for ensuring that all employees and other individuals who support, influence or control the contractor's activities at Argonne National Laboratory comply with U.S. export control requirements. The contractor must, at the contractor's own expense, conduct an export control self assessment and, if needed, develop a export control program that will be monitored and reviewed by the Laboratory. The contractor must ensure that all employees and subcontractors are aware of the contractor's obligations and requirements. The contractor must report any issues to the government in a timely manner. The contractor shall be solely responsible for the contractor's compliance with the contractor's obligations and requirements. The contractor shall be solely responsible for the contractor's compliance with the contractor's obligations and requirements.

45. 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 participate in is classified, there are situations where Argonne employees and/or equipment may be transferred to foreign countries. 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 those topics that are not on the DOE Sensitive Subject 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.

46. 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.

47. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) The contractor shall comply with the requirements of the “DOE Contractor Employee Protection Program” at 10 CFR Part 708 for work performed on behalf of DOE directly related to the contractor's 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 subcontractors involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.

48. 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 enacted by Section 743, Title 41 U.S.C. 4712, as described in Section 3.908 of the Federal Acquisition Regulation.

49. PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010) –

Appplies To Contracts That Exceed $30,000 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 (b) of the definition in FAR 2.101).

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a commercial item solicitation, at any tier, without modification, in the same form in which it is sold in the commercial marketplace.

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

(b) The permittee or a subcontractor or debarred Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall—

(1) Suspend, disqualify, and/or terminate any subcontract in excess of $30,000, service, detection, and remediation of research misconduct as defined by this clause, and the conduct of inquiries, investigations, and adjudication of allegations of research misconduct in accordance with the requirements of this chapter;

(2) Suspend or debar, or otherwise penalize, the Contractor or any subcontractor, its principals, for failure to obtain a contractor's determination of the reasons for the subcontractor being in SAM. The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the SAM.

(3) Unless otherwise instructed by the Laboratory Procurement Official (LPO), the contractor shall conduct an initial, in-person interview, whether an oral or written, of the principal or the subcontractor, in which the contractor determines that there is sufficient evidence to proceed to an investigation, it must notify the contractor and, unless otherwise instructed, the contractor must conduct an investigation to develop a factual record and an examination of such record leading to either a finding of research misconduct and an identification of appropriate remedies or a determination that no further action is warranted;
52. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

In the event a Government or Laboratory vehicle (including Laboratory-rented vehicles) 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.

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

(a) Definitions. As used in this clause—
   “Driving” 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.
   “Motor vehicle” means a vehicle designed for use on public roads or highways, and includes, but is not limited to, automobiles, motorcycles, construction equipment, or delivery or service vehicles.

(b) The Contractor shall establish and implement policies and procedures that encourage employees to follow this policy, and include the following:
   (1) Provide training on the dangers of texting while driving.
   (2) Post signs and other reminders on the dangers of texting while driving.
   (3) Distribute literature on the dangers of texting while driving.
   (4) Hold meetings or other events to educate employees on the dangers of texting while driving.

(c) The Contractor shall provide and maintain a vehicle tracking system that records information about the location and activities of all motor vehicles.

(d) The Contractor shall implement a system for monitoring and reporting violations of this policy.

54. 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.

55. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other areas, dressing and changing areas, rest rooms, wash rooms, locker rooms, or dressing and changing areas, telephone banks, telephones, or telephone answering devices, toilets, urinals, and other sanitary facilities, work areas, storage areas, areas, transportation, and housing facilities provided for employees, that are segregated by race, color, religion, sex, national origin, handicap, or veteran status, in whole or in part, in the provision of employment opportunities, in the delivery of services, or in the conduct of any other activity, conducted by or under the control or supervision of the Government and the Contractor.

(b) The Contractor shall make all reasonable efforts to ensure that all segregated facilities are promptly and ef fectively integrated into this contract.

56. ACCOUNTS, RECORDS, AND INSPECTION (DEC 2010)

(a) Accounting.
   The Contractor shall shall maintain, for the period of the contract and for a period of three years thereafter, complete and accurate records and supporting documentation necessary to fully account for all work performed under this contract. The Contractor’s records shall be subject to audit and inspection at any time during the performance of the contract, and for a period of three years thereafter, by DOE or its agents at the Contractor’s facilities. The Contractor’s records subject to such inspection shall be kept in good order and shall be made available for inspection and audit upon the request of DOE.

(b) Financial reports.
   The Contractor shall file complete and accurate financial reports and supporting documentation with DOE on a monthly basis, or as required by DOE.

(c) Inspections.
   DOE may, at any time during the performance of this contract, conduct physical inspections of the Contractor’s facilities, including research facilities and laboratories, financial records, and other data relating to the performance of this contract.

(d) Access to records.
   The Contractor shall permit DOE to have access to all records and other data relating to the performance of this contract at the Contractor’s facilities.

(e) Audits.
   DOE may, at any time during the performance of this contract, conduct an audit of the Contractor’s facilities, including research facilities and laboratories, financial records, and other data relating to the performance of this contract.

(f) Records retention.
   The Contractor shall retain all records and other data relating to the performance of this contract for a period of three years after completion of the contract.

(g) Invoices.
   The Contractor shall submit invoices for payment in accordance with the terms of this contract.

(h) Contracts.
   The Contractor shall maintain complete and accurate records of all contracts and subcontracts entered into by the Contractor or the Contractor’s subcontractors in connection with the performance of this contract.

(i) Subcontracts.
   The Contractor shall enter into no subcontracts unless such subcontracts are entered into by the Contractor or the Contractor’s subcontractors in connection with the performance of this contract.

(j) Report.
   The Contractor shall furnish such progress reports and schedules, and financial and cost reports, and other reports concerning the work under this contract, as the Contracting Officer may require.

(k) Inspections.
   DOE may, at any time during the performance of this contract, conduct physical inspections of the Contractor’s facilities, including research facilities and laboratories, financial records, and other data relating to the performance of this contract.

(l) Audits.
   DOE may, at any time during the performance of this contract, conduct an audit of the Contractor’s facilities, including research facilities and laboratories, financial records, and other data relating to the performance of this contract.

(m) Records retention.
   The Contractor shall retain all records and other data relating to the performance of this contract for a period of three years after completion of the contract.

57. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

In the event a Government or Laboratory vehicle (including Laboratory-rented vehicles) 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.
2. This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

3. Nothing in this contract shall be deemed to preclude an audit by the Government Accountability Office of any transaction under this contract.

57. 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.

58. SUSPECT COUNTERFEIT PARTS (DEC 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.
ATTACHMENT I TO SUSPECT/COUNTERFEIT PARTS CLAUSE

**SUSPECT/COUNTERFEIT PART**

**HEADMARK LIST**

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: J
- MANUFACTURER: Jinn Her (TW)

- MARK: KS
- MANUFACTURER: Kosaka Kogyo (JP)

GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

- MARK: A
- MANUFACTURER: Asahi Mfg. (JP)
- MARK: KS
- MANUFACTURER: Kosaka Kogyo (JP)

- MARK: NF
- MANUFACTURER: Nippon Fasteners (JP)
- MARK: RT
- MANUFACTURER: Takai Ltd (JP)

- MARK: H
- MANUFACTURER: Hinomoto Metal (JP)
- MARK: FM
- MANUFACTURER: Fastener Co of Japan (JP)

- MARK: M
- MANUFACTURER: Minamida Sitybo (JP)
- MARK: KY
- MANUFACTURER: Kyoei Mfg (JP)

- MARK: MS
- MANUFACTURER: Minato Kogyo (JP)
- MARK: J
- MANUFACTURER: Jinn Her (TW)

Hollow Triangle: Intasco (CA TW JP YU) (Greater than 1/2 inch dia)

- MARK: E
- MANUFACTURER: Daiel (JP)
- MARK: UNY
- MANUFACTURER: Unytile (JP)

GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:

- MARK: KS
- MANUFACTURER: Kosaka Kogyo (JP)

GRADE A325 FASTENERS (BENNETT DENVER TARGET ONLY) WITH THE FOLLOWING HEADMARKS:

- **Type 1**
  - MARK: A325 KS
  - MANUFACTURER: Kosaka Kogyo (JP)

- **Type 2**
  - MARK: A325 KS
  - MANUFACTURER: Kosaka Kogyo (JP)

- **Type 3**
  - MARK: A325 KS
  - MANUFACTURER: Kosaka Kogyo (JP)

Headmarkings are usually raised – sometimes indented.

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

ANY BOLT ON THIS LIST SHOULD BE TREATED AS DEFECTIVE WITHOUT FURTHER TESTING.

OR, IF YOU SEE ANY INDICATION THAT A CIRCUIT BREAKER MAY BE USED OR REFURBISHED SEE:  [http://www.saftek.com/worksafe/bull82.txt](http://www.saftek.com/worksafe/bull82.txt)