# 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 with an 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; or
(2) The contractor requests it and the amount due on the deliveries is at least $1,000 or 10 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 the 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 PAYMENT UNLESS A COMPLETED FORM ANL-661 IS INCLUDED WITH ALL INVOICES REGARDLESS IF PROPERTY IS BEING INVOICED ON A PARTICULAR INVOICE OR NOT.

(c) Submission of Transportation Documents

(1) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid:

(A) By the Contractor and added to the invoice for contractor supplied goods and/or services.

(B) By a first-tier subcontractor and added to the invoice for contractor supplied goods and/or services.

(2) Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding $200. Bills under $200 shall be retained on-site by the Contractor and made available for on-site audits.

(3) Contractors shall submit the above referenced transportation documents with the 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 Procurement Official responsible for administering the contract. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. The notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of any contracts for all Laboratory contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

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 become 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 contract, or (2) the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited by the Contractor within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(c) Subpart (ii) of the Federal Acquisition Regulation (FAR) applies to all Federal contracts and/or subcontracts that have an aggregate value in excess of $5,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited by the Contractor within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(d) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. This shall include, but not be limited to:

(i) Employment;
(ii) Upgrading;
(iii) Employment of applicants without regard to race, color, religion, sex, or national origin.

5. COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Laboratory shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(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 or holds itself out as being able to obtain any Government contract or contracts through improper influence.

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 will be a party to Federal contracts and/or subcontracts that have an aggregate value in excess of $5,000, the Contractor shall comply with this clause. However, for work performed outside the United States by employees who were not recruited by the Contractor within the United States, upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(c) (1) 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 connection with employment opportunities on or near an Indian reservation, as determined by 41 CFR 60-5.1.

(d) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. This shall include, but not be limited to:

(i) Employment;
(ii) Upgrading;
(iii) Employment of applicants without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall offer opportunities to all qualified applicants for employment, without regard to race, color, religion, sex, or national origin.

(f) The Contractor shall offer employment opportunities to each labor union or employee organization as a member of a joint labor-management committee, established in the exercise of the rights granted by Executive Order 11246, so that representatives of the Contractor's employees will be kept informed as to the terms and conditions of the employment opportunities.

(g) (i) The Contractor shall not discriminate against any employee or applicant solely because of his or her membership or non-membership in any union or labor organization.

41 CFR 60-5.5.

(h) The Contractor shall provide a program of employment training and education for a substantial dollar amount, which is necessary to obtain self-sufficiency, as determined by 41 CFR 60-5.5.

(i) Employment;
(ii) Employment of applicants without regard to race, color, religion, sex, or national origin.

(j) The Contractor shall offer employment opportunities to each labor union or employee organization as a member of the finance committee, established in the exercise of the rights granted by Executive Order 11246, so that representatives of the Contractor's employees will be kept informed as to the terms and conditions of the employment opportunities.

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 will be a party to Federal contracts and/or subcontracts that have an aggregate value in excess of $5,000, the Contractor shall comply with this clause. However, for work performed outside the United States by employees who were not recruited by the Contractor within the United States, upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(c) (1) 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 connection with employment opportunities on or near an Indian reservation, as determined by 41 CFR 60-5.1.

(d) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, religion, sex, or national origin. This shall include, but not be limited to:

(i) Employment;
(ii) Upgrading;
(iii) Employment of applicants without regard to race, color, religion, sex, or national origin.

(e) The Contractor shall offer employment opportunities to each labor union or employee organization as a member of a joint labor-management committee, established in the exercise of the rights granted by Executive Order 11246, so that representatives of the Contractor's employees will be kept informed as to the terms and conditions of the employment opportunities.

(f) The Contractor shall offer employment opportunities to each labor union or employee organization as a member of a joint labor-management committee, established in the exercise of the rights granted by Executive Order 11246, so that representatives of the Contractor's employees will be kept informed as to the terms and conditions of the employment opportunities.

7. EMPLOYMENT REPORTS VETERANS (SEPT 2010)

(a) The Contractor shall submit employment reports for veterans in accordance with applicable VA regulations and the Department of Labor's Guide to Affirmative Action Programs for Veterans, as amended. The following reports are required:

(i) Employment;
(ii) Employment of applicants without regard to race, color, religion, sex, or national origin.

(b) The Contractor shall not discriminate against any employee or applicant solely because of his or her membership or non-membership in any union or labor organization.

(c) The Contractor shall offer employment opportunities to each labor union or employee organization as a member of the finance committee, established in the exercise of the rights granted by Executive Order 11246, so that representatives of the Contractor's employees will be kept informed as to the terms and conditions of the employment opportunities.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-11.

8. EMPLOYMENT REPORTS VETERANS (SEPT 2010)

This clause applies to all contracts with a value in excess of $100,000 unless exempted by rules, regulations, or orders of the Secretary of Labor.

(a) Definitions. As used in this clause, "Armed Forces service medal veteran," "disabled veteran," "covered veteran," "recently separated veteran," and "veteran," have the meanings given in the Equal Opportunity for Veterans clause 52.222-35.

(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--
The total number of employees in the contractor's workforce, by job category and hiring location, who are disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans.

The number of new hires fixed during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans.

The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

The contractor shall report the above information to the employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent three-month period preceding the end date selected by the contractor. The contractor shall select an ending date.

At the end of any pay period between July 1 and August 31 of the year the report is due or,

As of December 31, if the contractor has prior written approval from the Equal Employment Opportunity Commission to complete the VETS-100A, the contractor shall submit an employment activity report by December 31 of each year.

The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent three-month period preceding the end date selected by the contractor. The contractor shall select an ending date 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 employee or as knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under Title 38 U.S.C. 4211.

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 not discriminate against any employee or applicant for employment because the individual is a veteran or other protected veteran, Armed Forces service medal veteran, recently separated veteran, or other protected veteran.

The contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, Armed Forces service medal veterans, other protected veterans; and

The contractor shall ensure that applicants or employees who are disabled veterans are informed of the contents of the notice (e.g., the contractor may have the notice read by a person in a wheelchair).

The contractor shall take affirmative action to employ, advance in employment, qualified disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans.

Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor. The Government may impose a monetary penalty against the Contractor by the Department of Labor for violations of this clause (52.222-35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-300.66) may include—

(i) Withholding progress payments;

(2) Termination or suspension of the contract; or

(3) Debarment of the contractor.

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.

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

**Applies To Contracts That Exceed $10,000 In Value**

The contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the Act are employed, and the notice is not to exceed one and one-half times the size of the Department of Labor’s employee notice. An employer may have the notice read by a person in a wheelchair.

(i) State the rights of applicants and employees as well as the Contractor's obligation to make the action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, other protected veterans, Armed Forces service medal veterans, other protected veterans; and

(ii) Be in a form prescribed by the Director, Office of Federal Contract Compliance Programs.

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Department of Labor.

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

(3) Withholding progress payments;

(4) Reproduced and used as exact duplicate copies of the Department of Labor’s official employee rights notice.

(5) 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.

If the contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently on the Contractor’s Web site the required notice, and shall also post on the Contractor’s Web site the required notice to employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

This contractor receives a monetary penalty against the Contractor by the Department of Labor for violations of this clause (52.222-35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-300.66) may include—

(i) Withholding progress payments;

(2) Termination or suspension of the contract; or

(3) Debarment of the contractor.

Subcontracts. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance.
10. NOTIFICATION OF EMPLOYMENT RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496: (APR2010)

(APPLIES TO CONTRACTS EQUAL TO OR GREATER THAN $10,000)
Federal contractors and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector. See 29 CFR Part 41. The notice, prescribed in the Department of Labor’s regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively through representatives of their choice, and to protect the interests of the United States. The notice also provides examples of illegal conduct by employees and unions, and 4 protected concerted activity, including the making of a collective-bargaining agreement, or in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(ii) Employees assigned to the contract.
For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 90 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(iii) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the Department of Defense; a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract as of the date of the agreement, or before the surety is named on a performance bond. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any notification that the re-verification of new employees applies only to new employees assigned to the contract.

(iv) To verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986, rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working at a Federal facility in the United States who was hired after November 6, 1986, within 180 calendar days of—

(a) Enrollment in the E-Verify program;
(b) Notification of E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program

(v) The Contractor shall comply, for the period of performance of this contract, with the requirement of the E-Verify program.

(c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security’s web site, http://www.dhs.gov/eVerify.

(d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment eligibility verification for Federal facilities.

(i) (1) Means any item of supply that is—

(ii) Has a value of more than $3,000; and

(iii) Who has undergone a completed background investigation and been issued a security clearance for access to the National Industrial Security Program Operating Manual; or

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

(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. Per 46 CFR 207.61(b)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose packaged form, having homogenous characteristics. Bulk cargo loaded and carried in bulk equipment, except that noncommodities (e.g., personnel, subject to mark or count), must be subject to mark or count and therefore, ceases to be bulk cargo.

(i) Recruitment, advertising, and job application procedures;

(ii) Has a value of more than $3,000; and

(iii) Includes work performed in the United States.

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

(1) (i) 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 provided for that COTS item; or

(2) Individuals previously verified. The Contractor is not required by this clause to perform additional employment eligibility verification for Federal facilities.

(iii) Recruitment, advertising, and job application procedures;

(iv) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence for pursuit of training;

(v) Activities sponsored by the Contractor, including social or recreational programs; and

(vi) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence for pursuit of training;

(2) The Contractor agrees to comply with the rules, regulations, and other orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(a) Posting.

(1) The Contractor agrees to post employment notices stating — (i) The Contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities without discrimination based upon their physical or mental disability in employment practices at all facilities.

(b) Subcontractors. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary.
13. CLEAN AIR AND WATER (APR 1984)

(a) "Air Act," as used in this clause, means the Clean Air Act (42 U.S.C. 7401 et seq.). "Clean air standards," as used in this clause, means:

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(2) An implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(3) An approved implementation procedure or plan under section 111(c) or section 111(d) of the Air Act (42 U.S.C. 7411(c) or 7411(d));

(4) An approved implementation procedure under section 112(d) of the Air Act (42 U.S.C. 7412(d)).

"Clean water standards," as used in this clause, means any enforceable limitation, control, prohibition, condition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by section 402 of the Water Act (33 U.S.C. 1342(g)). "Compliance," as used in this clause, means compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1317).

"Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, used in the performance of a contract or subcontract. Whenever a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency, determines that independent facilities are contained in one geographical site and activities in each facility are separately regulated.


(b) The Contractor shall ensure that energy-consuming products are energy efficient products as defined in this clause. Information about these products is available for—

(1) Means a product that—

(i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65; and

(ii) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d));

(2) A schedule or plan ordered or approved by a court of competent jurisdiction, the contractor or subcontractor, used in the performance of a contract or subcontract. When a "Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor, used in the performance of a contract or subcontract. Whenever a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee, of the Environmental Protection Agency, determines that independent facilities are contained in one geographical site and activities in each facility are separately regulated.

(c) If available, the contractor, in performing work under this contract, shall use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property, to the United States, in the absence of satisfactory proof of the necessity for foreign-flag air carrier service for the transportation, to disallow expenditures from funds, appropriated or otherwise established for the project for which the services are performed.

(d) In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation of personnel (and their personal effects) or property, to the United States, in the absence of satisfactory proof of the necessity for foreign-flag air carrier service for the transportation, to disallow expenditures from funds, appropriated or otherwise established for the project for which the services are performed.

(e) The contractor shall notify the Laboratory Procurement Representative; and the Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall—

(1) Submit a Toxic Chemical Release Form (Form R) on or before July 1 of the prior calendar year during which the facility becomes eligible; and

(2) Include in any resultant subcontract exceeding $100,000 (including all options), the notice requirement in paragraph (e) of this clause. Any such request shall—

(i) Be submitted in writing;

(ii) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(iii) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

16. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, *days prior to the delivery of, or prior to completion of any servicing required by this contract for items containing radioactive material.* (c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt—

(1) The Contractor shall notify the Laboratory Procurement Representative; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall—

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and

(ii) Include in any resultant subcontract exceeding $100,000 (including all options), the notice requirement in paragraph (e).

(b) 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 reporting requirements.

(c) Except for acquisitions of commercial items as defined in FAR Part 2, 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 notice requirement in paragraph (e).

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

(a) Definitions. As used in this clause—

(i) 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.

(ii) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(iii) The Laboratory Procurement Representative shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses or other regulatory instruments are in place.

* The Laboratory Procurement Representative shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses or other regulatory instruments are in place.

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactivity of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazardous nature of the materials contained therein, the Laboratory Procurement Representative shall eliminate the notice requirement in paragraph (a) of this clause. Any such request shall—

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government or the Laboratory shall be clearly marked and labeled as required by the latest regulatory requirements.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meetings the criteria in paragraph (a) of this clause.

18. PREFERENCE FOR PRIVATELY OWNED U.S. – FLAG COMMERCIAL VESSELS (FEB 2006)

(a) Except as provided in paragraph (c) of this clause, the Cargo Preference Act of 1946 (46 U.S.C. Appx 1241(b)) 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 all cargo materials, to the extent practicable. If independent vessels may be acquired that are designed, built, and operated as separate vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers) such transportation shall be accomplished in accordance with the preference applicable to such vessels, located within or outside the United States, that may be transported by ocean vessel are—

(1) Acquired for a U.S. Government agency account;

(2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;

(3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies;

(4) Acquired with advance of funds, loans, or guarantees made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or
commodities under the conditions set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c) 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, Rm 5900
400 Seventh Street, SW
Washington, DC 20590

Subcontractor bills of lading shall be submitted through the Prime Contractor.

(2) The Contractor shall furnish these bill of lading copies—

(i) within 20 working days of the date of loading for shipments originating in the United States, or

(ii) within 30 working days for shipments originating outside the United States.

Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.

(B) Name of vessel.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of final discharge.

(G) Description of commodity.

(H) Gross weight in pounds and cubic feet if available.

(i) Total ocean freight revenue in U.S. dollars.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(1).

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

(1) Cargoes carried in vessels or as required or authorized by law or treaty;

(2) Ocean 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. 2323).

(3) Shipments of classified supplies when the classification prohibits the use of non-government vessels; and

(4) Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) This clause—

(A) A contract or agreement for ocean transportation services; or

(B) A construction contract; or

(ii) Supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontractor ships for a specific destination shipment); or

(B) Shipped in direct support of U.S. military—

(1) Contingency operations;

(2) Exercises; or

(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

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

Of the Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-366-2324

19. 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.

20. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

This clause does not apply to small business concerns.

a. The term used in this clause—

"Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporations organized under 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 43 U.S.C. 162(b)(1)); includes ANC and Indian tribes; includes direct and indirect subsidiaries, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(c)(1)

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

"Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and applies to the entire production of commercial items sold by 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, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 161 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(e).

"Master plan" means a subcontracting plan that contains all the required elements of a complete 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 Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

b. The offeror, upon request by the Laboratory, shall prepare and submit a subcontracting plan that covers the entire company or a portion thereof (e.g., division, plant, or product line).

"Individual Request for Assistance (IRA)" means a request for the assistance of an appropriate Federal Government agency (including the Federal Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business concerns) that receive subcontracts in excess of $650,000 ($1.5 million for small, HUBZone, small disadvantaged, and women-owned small business concerns).

"In accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.), outreach, assistance, and outreach, assistance, and assistance shall be provided to small, HUBZone, small disadvantaged, and women-owned small business concerns, and small, HUBZone, small disadvantaged, and women-owned small business concerns. The offeror shall include all small businesses 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.

"Prime Contractor" means a contractor awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business subcontracting goals.

"Small disadvantaged business concerns, 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.

"Small disadvantaged business concerns, 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.

"Small disadvantaged business concerns, 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.

"Small disadvantaged business concerns, 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.

"Small disadvantaged business concerns, 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.
iv. Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS.

v. Provide its prime contract number, its DUNS number, and the e-mail address of the official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans so they can enter this information into the relevant databases, which are maintained by the State Department or other agency that has statutory or regulatory authority to require data reported by prime Contractors and subcontractors shall be limited to awards made to the immediate host-tier subcontractors.

vi. Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor’s official responsible for acknowledging receipt of or rejecting the eSRS, to its subcontractors with subcontracting plans.

11. A description of the types of records that should be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including source lists, and a description of the offeror’s efforts to solicit subcontracting opportunities that are small business, veteran-owned small business, service-disabled veteran-owned small business,HubZone small business, small disadvantaged business, and women-owned small business concerns.

i. 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, and women-owned small business concerns.

ii. Source lists (indicated):
A. Trade associations;
B. Monitoring performance to evaluate compliance with the program’s requirements.
C. Conferences and trade fairs to locate small,HubZone small, small disadvantaged, and women-owned small business sources; and
D. Records of internal guidance and encouragement provided to buyers through –

v. Records on each subcontract solicitation resulting in an award of more than $500,000, 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;
G. If applicable, the reason was not made to a small business concern.

In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

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 so as to facilitate the participation by such concerns. Where the Contractor’s lists 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 concerns 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 by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor’s lists 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 concerns are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

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 accessing the Central Contractor Registration (CCR) 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 all of a goal contained in the Contractor’s subcontracting plan.

6. For all competitive subcontractor offers to subcontract the small acquisition threshold in which a small business concern received a small acquisition preference, upon determination of the successful subcontract offeror, the Government may require each unsuccessful small business subcontractor offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

7. 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.

21. UTILIZATION OF SMALL BUSINESS CONCERNS [JAN 2011]
(a) it is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for commercial items in the full range of products and services. As part of this policy the United States that its prime contractors establishes procedures to ensure the timely reporting of subcontract award data. This reporting is required under the requirement of small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to
Defining terms as used in this contract:

Any small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

“Service-disabled veteran-owned small business concern” means a small business concern owned and controlled by one or more service-disabled veterans, at least 51 percent of the stock of which is owned by one or more such veterans; and

(i) The management and daily business operations of which are controlled by one or more veterans; and

(ii) That the Contractor regards the order as a change order.

Notice to the Laboratory:

(a) The contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract to which a labor dispute may delay or threaten to delay the timely performance of this contract, except that each subcontract shall provide that in the event its timely performance is delayed or threatened to be delayed by a labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the contractor, as the case may be, of all relevant information concerning the dispute.

(b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the contractor’s correction of any services or supplies, the Laboratory Procurement Official shall insert the specific period of time in which notice shall be given to the Contractor, e.g., “within 24 hours of use by the Laboratory,” or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time. This notice shall state that (i) the Contractor will correct or reperform any defective or nonconforming services, or (ii) that the Laboratory does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Laboratory Procurement Official may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Laboratory thereby, or make an equitable adjustment in the contract price.

(d) If the Laboratory does not require correction or reperformance, the Laboratory Procurement Official shall make an equitable adjustment in the contract price.

Supply of Services (June 2007)

The contractor shall furnish, install, and adjust, where required, all new and replacement supplies under this contract. The supplies shall be delivered, installed, and adjusted as promised in the proposal for adjustment may be included in the notice under paragraph (b) of this clause.

25. WARRANTY OF SERVICES (MAY 2001)

Definitions. “Acceptance,” as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of and existence of supplies, or approves specific services, as the case may be.

(b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the contractor’s correction of any services or supplies, the Laboratory Procurement Official shall insert the specific period of time in which notice shall be given to the Contractor, e.g., “within 24 hours of use by the Laboratory,” or other specified event whose occurrence will terminate the period of notice, or combination of any applicable events or period of time. This notice shall state that (i) the Contractor will correct or reperform any defective or nonconforming services, or (ii) that the Laboratory does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory and any services corrected or reperformed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Laboratory Procurement Official may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Laboratory thereby, or make an equitable adjustment in the contract price.

(d) If the Laboratory does not require correction or reperformance, the Laboratory Procurement Official shall make an equitable adjustment in the contract price.

Supply of Services (December 2011)

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

Energy Consuming Products:

When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the contractor will specify and deliver Energy Star® qualified products or products consistent with the Federal Energy Management Program’s Energy Efficiency Requirements, whichever may be applicable, provided products such that a designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for Energy Star® at http://www.energystar.gov/productsandEPAT at http://www.eere.energy.gov/epat.

In the performance of this contract, the Contractor shall conform with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (http://www.epa.gov/greeningepa/practices/eo13423.htm) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance. This guide includes information concerning recycled content products, bio-based products, energy efficient products, water efficient products, alternative fuels and vehicles, non ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at http://www.epa.gov/greeningepa/practices/eo13514.htm.

27. RESPONSIBILITY FOR SUPPLIES (OCT 1999)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance by the Laboratory and receipt of the invoice with which the Contractor sends each shipment. Payment for title or possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss or damage to supplies shall remain with the contractor until the time of delivery to the Laboratory.

(c) The Laboratory has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Laboratory shall perform inspection in a manner that will not unduly delay the work.

(d) Paragraph (b) above shall not apply to supplies that fail to conform to contract requirements as to give a right of rejection. The risk of loss or damage to such nonconforming supplies remains with the contractor until cure or acceptance. After cure or acceptance, this paragraph shall apply.

(e) Under paragraph (b) above, the contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Laboratory acting within the scope of their employment.

28. INSPECTION OF SERVICES (AUG 1996)

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

The Contractor shall provide and maintain an inspection system acceptable to the Laboratory covering all services under this contract. The performance of work performed by the Contractor shall be maintained and made available to the Laboratory during contract performance and for a period of three years from the date of the last shipment under contract.

The Laboratory has the right to inspect and test all services called for by the contract, to the extent practicable at all times and places during the term of the contract. The Contractor shall perform inspection in a manner that will not unduly delay the work.

If the Contractor fails to perform inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall perform inspections or tests at the Laboratory at the Contractor’s expense, subject to approval by the Laboratory.

Under paragraph (b) above, the contractor shall be liable for loss of or damage to supplies caused by the negligence of the Contractor or its employees acting within the scope of their employment.

If any of the services do not conform with contract requirements, the Laboratory may require the Contractor to perform additional work at the Contractor’s expense. The Contractor shall be compensated for the cost of any work performed by the Contractor to perform additional work at the Contractor’s expense. The cost of any work performed by the Contractor to perform additional work at the Contractor’s expense shall be added to the contract price. The Contractor shall be reimbursed for the cost of any work performed by the Contractor to perform additional work at the Contractor’s expense.
29. PERMITS OR LICENSES (OCT 1999)

Except as otherwise directed by the laboratory, the contractor shall procure all necessary permits or licenses and shall comply with all applicable laws, regulations, and the conditions of the contract and of the State, territory, and political subdivision in which the work under this contract is performed.

30. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) Neither this contract nor any interest therein nor claim thereunder 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 designated representative.

(b) The contractor shall not subcontract any portion of the work hereunder without the prior written approval of the Laboratory. When requesting such approval, 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.

31. SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)

(a) Definitions. As used in this clause—

"Commercial item" has the meaning contained Federal Acquisition Regulation 2.101, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or branches of the contractor or between parent and subsidiary at any tier.

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

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 215)), if the subcontract exceeds $50,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of any of the criminal law shall be directed to the appropriate office of the Inspector General. Such a copy of the clause shall be delivered to the Contracting Officer.


(iii) 52.219-4, Utilization of Small Business Concerns (Dec 2010) (15 U.S.C. 637(d)(1) and (2)), if the subcontract offers subcontracting opportunity for U.S.-made products.

(iv) 52.219-8, Small Business Set-Aside Requirements (Jun 2010) (15 U.S.C. 637(d)(2) and (3)), if the subcontract is to small business firms.


(vi) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (29 U.S.C. 157). If flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(vii) 52.222-50, Contract Work Hours and Safety Standards Act (Aug 2010) (29 U.S.C. 4101). (a) The Contracting Officer shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 41; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41. (b) In all other subcontracts, the Contracting Officer shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 41; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41.

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

32. LABORATORY-FURNISHED PROPERTY (OCT 1999)

(a) The Laboratory shall deliver to the contractor, at the time and places stated in this contract, the Laboratory-furnished property described in this contract. If that property, suitably prepared for intended use, is not delivered to the contractor, the Laboratory shall equitably adjust the provisions of this contract in accordance with the Changes clause. The contractor shall not be liable for any property delivered under this paragraph unless it shall be shown that the contractor was not guilty of willful negligence.

(b) (i) The facts warrant an equitable adjustment.

(ii) The contractor must notify the Government in writing that the contractor is delivering the Laboratory-furnished property only in connection with this contract. The contractor shall use the Laboratory-furnished property only in connection with this contract. The contractor shall maintain adequate property control records in accordance with sound industrial practice that will permit such records to be of assistance in the prompt identification of property that is not delivered to the contractor, as well as that which is delivered to the contractor.

(c) Upon delivery of Laboratory-furnished property to the contractor, the contractor assumes the risk and responsibility for its loss or damage.

(d) For reasonable wear and tear; or

(e) To the extent property is consumed in performing this contract.

(f) Upon completing this contract, the contractor shall follow the instructions of the Laboratory regarding the disposition of all Laboratory-furnished property not consumed in performing this contract or previously delivered to the contractor. The contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property, as may be directed or authorized by the Laboratory. The contractor shall not resell, use in the manufacture of or other product, the property if it has been damaged or otherwise impaired by the contractor.

33. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (JUL 2005)

(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. The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government or the Laboratory. The Laboratory Procurement Representative will assess liquidated damages at the rate of $10 per affected employee for each calendar day during which the employer required or permitted an employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act.

(c) For unpaid wages and liquidated damages. The Laboratory Procurement Representative will withhold from payments due under the contract sufficient funds required to satisfy the Contractor or subcontractor liability for unpaid wages and liquidated damages. In amounts withheld under the contract are insufficient to satisfy Contractor or subcontractor liabilities, the Laboratory Procurement Representative will 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 Act.

34. WALSH-HEALEY PUBLIC CONTRACTS ACT (JUN 2011)

Except as otherwise may be approved, in writing, by the Laboratory Procurement Office, the Contractor agrees to insert the following provision in noncommercial Purchase Orders and subcontracts under this contract. If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $15,000.00, and is otherwise subject to the Walsh-Healey Public Contract Act (as amended (41 U.S.C. 35)), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

35. INTEGRITY OF UNIT PRICES (OCT 2010)

This clause applies to all subcontracts that exceed $150,000.

(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 allowable. For example, distributing costs equally among line items of the same class or kind as those that the agency determines are necessary to do the work, and where there is little or no variation in base prices, is not allowable. 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 supplies that it will not manufacture or for which it will not contribute significant value.

(c) The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 41; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41. Services where supplies are not required, commercial items, and petroleum products.

36. BUY AMERICAN ACT—SUPPLIES (FEB 2009)

(a) Definitions. As used in this clause—

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

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101), (ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to and acquired by the federal government at the end item or subassembly level.

(b) The Buy American Act (41 U.S.C. 10a-10d) provides a preference for domestic end products, manufactured or produced in the United States, if those products are reasonable and available. A "domestic product" means an end product, component, or material—

(i) Of a foreign origin of the same class or kind as those that the agency determines are not manufactured, produced, or manufactured in sufficient and reasonably available quantities of a satisfactory quality to meet the needs of the United States.

(ii) That is produced in the United States, or under the Laws of the United States, or under the laws of a foreign country to which was added in good faith, for the purpose of this clause.

(iii) That is produced by a U.S.-owned and founded company that is a COTS item.

(c) The contractor may obtain from the Contracting Office a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified other than domestic end products in the solicitation statement issued "Buy American Act Certificate."
administrative action taking effect after the contract date. It does not include social security tax or other employment taxes. *After-released Federal tax* means any amount of Federal excise tax or duty, except social security tax or other employment taxes, that would otherwise have been deducted but for transactions or property covered by this contract, but which the Contractor is not required to provide or for which the contractor is not reimbursed for any refund or drawback, as a 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 Contractor is required to impose and collecting on the transactions or property covered by this contract.

*Contract date* means the date 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, a possession or territory of a foreign country, the District of Columbia, a State, a political subdivision, or any other political subdivision of any of those areas.

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

*The contract price shall be increased by the amount of any after-imposed Federal tax, except social security tax or other employment taxes, that are included in the contractor's gross profit or overhead charge.*

*The Government shall, without liability, furnish evidence appropriate to establish exemption from* payment, tax, or charge, or the amount of the tax or charge.

*The Contractor shall promptly notify the Contracting Officer of all matters relating to any* claim relating to any tax, or charge, or the amount of the tax or charge.

*No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds $250.*

*The Contractor shall promptly notify the Contracting Officer of all matters relating to any* claim relating to any tax, or charge, or the amount of the tax or charge.

No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds $250.

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No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds $250.

The Contractor shall promptly notify the Contracting Officer of all matters relating to any claim relating to any tax, or charge, or the amount of the tax or charge.

No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds $250.
"Person" means an individual, company, corporation, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term includes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal funds.

(b) Prohibition. 31 U.S.C. 1392 prohibits a recipient of a Federal contract, grant, loan, cooperative agreement, or assistance agreement to pay any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress, or an employee of a Member of Congress in connection with the award of this contractor the appropriated funds to pay any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contractor appropriated funds to pay any person for influencing or attempting to influence an 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 other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Recipient" includes the Contractor and all subcontractors. This term includes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal loans, 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.

"Regularly employed" means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee whose services are employed by such person for 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency, or any entity having governmental duties and powers.

(c) Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of this provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding $150,000 under this contract. The Contractor shall, at the request of the Contracting Officer, provide information requested by the subcontractor to submit to the Contracting Officer within 30 days a copy of all disclosures made in accordance with this clause.

(2) To the extent that the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that the Contractor spent any monies for influencing activities that will be allowable if paid for with Federal appropriated funds.

(3) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by Title 31 U.S.C. 1392. An officer or employee of Congress, or an employee of a Member of Congress shall be subject to the same civil penalties.

(f) Cost allocability. Nothing in this clause makes allowable or reasonable any costs which would be unallowable under any other provision of this clause.

(h) Access authorizations of personnel.

(i) The Contractor shall not permit any individual to have access to any classified information or special nuclear material to which access is required. A contractor must conduct a thorough review, as defined at 48 CFR 994.401, of an uncleared applicant or unclassified employee, and must test the individual for illegal drugs or other controlled substances prior to selecting a DOE access authorization.

44. SECURITY (MAR 2011)

(a) Responsibility. It is the Contractor's duty to protect all classified information, special nuclear material, and 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 the performance of work under this contract. 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 the performance of work under this contract.

(b) Definitions.

(1) "Person" means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term includes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal funds.

(2) "Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

(3) "State" means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency, or any entity having governmental duties and powers.

(c) Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of this provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding $150,000 under this contract. The Contractor shall, at the request of the Contracting Officer, provide information requested by the subcontractor to submit to the Contracting Officer within 30 days a copy of all disclosures made in accordance with this clause.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the contractor's OMB Standard Form LLL disclosure, the Contractor shall, at the end of the calendar quarter in which the change occurs, transmit the OMB Standard Form LLL to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) Penalties.

(f) Cost allocability. Nothing in this clause makes allowable or reasonable any costs which would be unallowable under any other provision of this clause.

(h) Access authorizations of personnel.

(i) The Contractor shall not permit any individual to have access to any classified information or special nuclear material to which access is required. A contractor must conduct a thorough review, as defined at 48 CFR 994.401, of an uncleared applicant or unclassified employee, and must test the individual for illegal drugs or other controlled substances prior to selecting a DOE access authorization.

(j) In collecting and using this information to determine in what manner to protect the contractor, it is appropriate to select an applicant who has no security clearance or does not have access to classified or sensitive nuclear information.
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 they pass the DOE drug test for use of illegal drugs.

v. When an uncleared applicant or uncleared employee receives an offer of employment for a position that requires a DOE access authorization, the contractor shall not place that individual in such a position prior to the individual being evaluated in accordance with the DOE access authorization program. DOE shall conduct the evaluation and make the determination of whether the individual meets the DOE access criteria.

vi. The contractor must notify the head of the cognizant DOE Security Office, in writing, the information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization.

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.

46. EXPORT LICENSE AGREEMENT (Aug 2002)

The contractor understands that the materials and information being transmitted under the performance of a contract and any subcontract shall be subject to U.S. Government laws and regulations regarding export or re-export. This includes deemed exports which are any communication of technical data to a foreign person, whether it is by sale, rental, license, lease, technical data sale, sale of a product, technical data transfer, technical assistance, or delivery of a product. Technical information (data) provided to a foreign national verbally, by mail, by telephone or facsimile, through visits or workshops, or through computer networking is an export. If a foreign national observes equipment or a facility and the contractor makes a technical data determination and reveals, it is solely the contractor’s obligation to obtain all appropriate export licenses, keep records, and comply fully with the export control regulations. Unless authorized by appropriate government license or regulation, contractor agrees not to export directly or indirectly any technology, software or materials provided by the Argonne.

Contractor shall be solely liable for any violation of export control laws, statutes, or regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

47. 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 nonproliferation objectives. Although much of the work Argonne and its employees do is considered sensitive and is not exportable, it is sometimes necessary to export or re-export. The contractor is responsible for obtaining any and all export licenses required for any such export or re-export.

An “export” can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals which are consistent with the regulations in this clause are not an “export” if they are restricted to “and non-restricted” technology. These are technology transfers in which neither the U.S. government license nor regulation, contractor agrees not to export directly or indirectly any technology, software or materials provided by the Argonne.

Prior to travel, verify that the technology, information, and/or commodities fall into one of the following categories:

- Fundamental research and information resulting from fundamental research
- Published information and software (publicly available) education information
- Patent applications
- If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export.

For further assistance, contact the Export Control Manager at Argonne in 1.822/257-4111.

48. 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.

49. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) The contractor shall comply with the requirements of the “DOE Contractor Employee Protection Program” at 10CFR Part 707 for work performed on behalf of DOE directly related to projects and activities performed under this contract.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to projects and activities performed under this contract.

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

Applies To Contracts That Exceed $30,000 In Value

(a) The contractor shall comply with the requirements of the “DOE Contractor Employee Protection Program” at 10CFR Part 707 for work performed on behalf of DOE directly related to projects and activities performed under this contract.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of DOE directly related to projects and activities performed under this contract.

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

Site Access

Site access, including cyber access utilizing a Laboratory account, by all non-U.S. citizens must be reviewed and approved by the Laboratory Director or his designee. All new requests must be submitted to the Laboratory Director or his designee. Normally, non-U.S. citizens are either visit or assignment status. DOE will not process candidates for a DOE access authorization unless they pass the DOE drug test for use of illegal drugs. DOE shall conduct the evaluation and make the determination of whether the individual meets the DOE access criteria.

For assignments (more than 30 days) involving a foreign national from a “Sensitive Country” and/or access to a security area of the Laboratory or access to a sensitive subject, at least 30 days advance notice should be provided to ensure that Security, Counterintelligence, and Export Control reviews can be accomplished, and DOE indices check can be completed prior to approval. In such cases, a specific security plan is required to be submitted to the Site Visit and Assignments Office with the ANL-931 Form (Requesting Site Visit and Assignments). An index check for a subject at any DOE facility is performed. DOE must be notified of all pending or proposed export licenses or transfers of export controlled items or technology. DOE shall deny any such export license or transfer of export controlled items or technology if DOE determines that the transfer would pose a threat to the national security or foreign policy of the United States.

For visits or assignments involving a foreign national from a “Terrorist Supporting Country”, which currently includes Cuba, Iran, Iraq, Libya, North Korea, Syria, specific approval of the transfer shall be obtained from the Secretary of Energy or his designee is required. If this approval is granted, the individual may take up to one year after the internal approvals have been processed.
51. COMBATTING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

(1) Exceed $30,000 in value; and
(2) Is not a subcontract for commercially available off-the-shelf items.

52. RESEARCH MISCONDUCT (JUL 2005)

(a) The contractor is responsible for maintaining the integrity of research performed pursuant to this contract, including the prevention, detection, and remediation of research misconduct as defined by this clause, and the conduct of inquiries, investigations, and adjudications of allegations of research misconduct in accordance with the requirements of this clause.

(b) Unless otherwise instructed by the Laboratory Procurement Official (LPO), the contractor must conduct an initial inquiry into any allegation of research misconduct if the LPO finds that:

(1) The research organization is not prepared to handle the allegation in a manner consistent with this clause;
(2) The contractor involves an entity of sufficiently small size that it cannot reasonably conduct the inquiry;
(3) Laboratory involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the public interest; or
(4) The allegation involves classified information.

(c) The Laboratory may elect to act in lieu of the contractor in conducting an inquiry or investigation into an allegation of research misconduct if the LPO finds that:

(1) The research organization is not prepared to handle the allegation in a manner consistent with this clause;
(2) The contractor involves an entity of sufficiently small size that it cannot reasonably conduct the inquiry;
(3) Laboratory involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the public interest; or
(4) The allegation involves classified information.

(d) In conducting the activities under paragraphs (b) and (c) of this clause, the contractor and the Laboratory, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:

(1) Safeguards for information and subjects of allegations. The contractor shall provide safeguards to ensure that individuals may bring allegations of research misconduct made in good faith to the attention of the contractor without suffering retribution. Safeguards include insulation of the contractor from the internal affairs of the research organization and procedures for examining and resolving allegations; and protection in placing reputations and responsibilities. The contractor shall also provide the subjects of allegations confidence that their rights are protected and that the mere filing of an allegation of research misconduct will not result in an adverse action. Safeguards include timely written notice, regarding the confidentiality of the description and reasonable access to any evidence submitted to support the allegation or developed in response to an allegation and notice of any findings of research misconduct.

(2) Objectivity and Expertise. The contractor shall select individual(s) to inquire, investigate, and adjudicate allegations of research misconduct who have appropriate expertise and have no unresolved conflict of interest. The individual(s) who conducts an adjudication must not be the same individual(s) who conducted the inquiry or report or analysis that led to the filing of the allegation that was the basis for the inquiry or investigation.

53. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

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

54. ENCOURAGING CONTRACTORS TO PROMOTE TEXTMESSAGING WHILE DRIVING (AUG 2011)

(a) Definitions. As used in this clause—

(1) “Driving” —
(2) Means operating a motor vehicle on an active roadway with the motor running, including while stopped at a red light, stop sign, or other traffic control device.
(3) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.
**58. 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:
   1. Select, use, and adhere to appropriate voluntary consensus standards (VCSs), except where use of VCSs is inconsistent with law or imperative. (Note: VCSs are defined as standards developed or adopted by voluntary consensus standards bodies, both domestic and international.)
   2. 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.
   3. 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.
   4. Report any misrepresentations or omissions of DOE technical standards that combine to form a system or practice that significantly affects performance or function through the Laboratory Technical Standards Manager in The Office of Contract Administration (COA).

59. 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; hoses, tubing, and lifting equipment; cranes, hoists, valves; pipe fittings; electronic devices; gauges; sensors; and 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 items.

However, the Laboratory will not refuse to pay for such items.

The Laboratory’s suspected items must be affixed to, or segregated in such a manner as to comply with:

1. The Comptroller General of the United States, or an authorized representative, shall have access to and the right to inspect any of the contractor’s or subcontractor’s direct or indirect, permanent records involving transactions related to this contract or a subcontract hereunder and to interview any employee regarding such transactions.
2. The Contractor may not be required 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 article shall be deemed to preclude an audit by the Government Accountability Office of any transaction under this contract.
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  MANUFACTURER  MARK  MANUFACTURER

J  Jinn Her (TW)  KS  Kosaka Kogyo (JP)

GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

MARK  MANUFACTURER  MARK  MANUFACTURER

A  Asahi Mfg. (JP)  KS  Kosaka Kogyo (JP)
NF  Nippon Fasteners (JP)  RT  Takai Ltd (JP)
H  Hinomoto Metal (JP)  FM  Fastener Co of Japan (JP)
M  Minamida Syeybo (JP)  KY  Kyoei Mfg (JP)
MS  Minato Kogyo (JP)  J  Jinn Her (TW)

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

E  Daiei (JP)  UNY  UNY  Unytila (JP)

GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:

MARK  MANUFACTURER

KS  Kosaka Kogyo (JP)

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

MARK  MANUFACTURER

Type 1  A325 KS  Kosaka Kogyo (JP)
Type 2  A325 KS
Type 3  A325 KS

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