APPENDIX A
ARGONNE TERMS AND & CONDITIONS
(For Fixed Price Contracts)

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1. 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.

"Ineligible employee" means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who does not meet the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as amended or supplemented from time to time, (3) whose employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who does not meet the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from Time to time, and (4) the contractor is qualified for participation in the Department of Energy Department of Energy
contractors with respect to work under its contract with the Department at the time the particular position is available

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

The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403 expected to exceed $500,000).

2. COVENANT AGAINST CONTINGENT FEES (MAY 2014)

(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 Government shall have the right to annul this contract without liability or, 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 influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

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

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

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

3. 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) (1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor was a nonexempt Federal contractor or subcontractor that has an aggregate value in excess of $50,000, the Contractor shall comply with this clause, except for performance performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.3).

(c) 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 publically announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

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

(i) Employment;
(ii) Upgrading;
(iii) Transfer;
(iv) Recruitment or recruitment advertising;
(v) Layoff or termination;
(vi) Rates of pay or other forms of compensation; and
(vii) Selection for training, including apprenticeship.

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

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

(5) The Contractor shall provide the Equal Employment Opportunity Commission with the information requested by the Commission.

(6) The Contractor shall provide the Equal Employment Opportunity Commission with the information requested by the Commission.

(7) The Contractor shall provide to the Equal Employment Opportunity Commission and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) the name of each office of the Equal Employment Opportunity Commission for the particular State where the Contractor has an office.

(8) The Contractor shall provide to the Equal Employment Opportunity Commission and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) the name of each office of the Equal Employment Opportunity Commission for the particular State where the Contractor has an office.

4. EMPLOYMENT REPORTS VETERANS (JUL 2014)

(a) Definitions. As used in this clause—

"Active duty wartime or campaign badge veteran;" "disabled veteran;" "active duty wartime or campaign badge veteran;" and "recently separated veteran;" have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on—

(i) The total number of employees in the contractor's workforce, by job category and hiring location, who are disabled veterans, other protected veterans (i.e., active duty wartime, or campaign badge veterans), Armed Forces service veterans, and recently separated veterans;

(ii) The total number of new employees hired during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans (i.e., active duty wartime, or campaign badge veterans), Armed Forces service veterans, and recently separated veterans; and

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

(c) The Contractor shall report the above items by completing the Form VETS-100A, entitled "Federal Contractor Veterans' Employment Report (VETS-100A Report)."

(d) The Contractor shall submit VETS-100A Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall report to the new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date—

(i) As of the end of any pay period between July 1 and August 31 of the year the report is due or;

(ii) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

5. EQUAL OPPORTUNITY FOR VETERANS (JULY 2014)

(a) Definitions. As used in this clause—

"Active duty wartime or campaign badge veteran;" "Armed Forces service medal veteran;" "disabled veteran;" "protected veteran;" "qualified disabled veteran;" and "recently separated veteran;" have the meanings given in FAR 22.1301.

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

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

6. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496 - (APR 2021)

(APPRIL 2014)

Federal contractors and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA), the Fair Labor Standards Act (FLSA), the Civil Rights Act (42 U.S.C. 2000), the Equal Employment Opportunity Act (42 U.S.C. 2000), the Immigration Reform and Control Act (8 U.S.C. 1324a), and the various other federal labor laws. The notices must be conspicuously posted in each of the offices where employees covered by the NLRA are likely to come in contact with the notices, including all places where employees covered by the NLRA are likely to enter into, and otherwise provided by law.

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

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted under the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that it becomes a part of the subcontract or purchase order.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including, but not limited to, requiring, determining, that the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any contract violation the Contractor has against the United States to enter into the litigation to protect the interests of the United States.

Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-11.
7. NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

Applies To Contracts That Exceed $10,000 In Value

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the national Labor Relations Act engage in activities relating to the performance of the contract, including places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (e).

(b) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor’s plants and offices so that the notice is prominent and readily seen by employees who are covered by the national Labor Relations Act and engage in activities related to the performance of the contract.

(c) The required notice shall be written or produced in the manner prescribed by the Secretary of Labor.

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

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, or the Contractor may be subject to any other sanctions or remedies provided by law.

(f) The Contractor shall include the substance of this clause, including this paragraph (f), as part of any subsequent subcontract or contract, as defined in 2.101 Definitions, to any person under the Contractor’s control who may perform work on the contract, whether existing employees or new hires.

(g) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(h) If the Contractor becomes involved in litigation with a subcontractor, or is threatened with such litigation, as a result of the Contractor’s enforcement efforts, the Contractor shall request the United States, to enter into such litigation to protect the interests of the United States.

8. EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013)

(a) Definitions. As used in this clause—

(1) “Commercially available off-the-shelf (COTS) item”—

(i) Means any item of supply that is—

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

(B) Offered to the Government for purchase in the commercial marketplace, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products. 46 CFR 52.1(c)(5) “bulk cargo” means that is loaded and carried in bulk onboard ship without mark or count, in a loose or unconditioned form, having no homogenous characteristics. Its cargo characteristics are loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count, and, therefore, ceases to be bulk cargo.

(iii) “Employee” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract, whether existing employees or new hires.

(iv) “Employee” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract, whether existing employees or new hires.

(b) Enrollment and verification requirements.

(i) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(I) Enroll as a Federal Contractor in E-Verify within 30 calendar days of contract award.

(ii) Verify all employees enrolled as a Federal Contractor in E-Verify within 90 calendar days of the date of hire (but see paragraph (b)(3) of this section); and

(iii) Verify all employees assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later.

(ii) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) All new employees.

(A) During the term of this contract, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, with 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, with 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(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 assignment or within 30 calendar days after the date of hire (but see paragraph (b)(3) of this section).

(iii) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State, local, or Tribal government employee, or a government employee of a recognized Indian tribe; or a surey 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, whether existing or new hires.

The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, and are subject to any sanctions or remedies provided by law for failure to comply.

(iv) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, or the Contractor may be subject to any other sanctions or remedies provided by law.

(v) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

9. QUALITY OF WORKERS WITH DISABILITIES (JUL 2014)

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

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

10. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)

All information technology acquired under this Agreement shall be consistent with the appropriate information technology security policies and requirements issued by the National Institute of Standards and Technology, available from the National Institute of Standards and Technology Website at http://csrc.nist.gov.

11. SECURITY (OCT 2013) (DEVIAATION)

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 policies and requirements, be responsible for protecting all classified information and all classified material (including digital data, electronic data, and other material such as magnetic tape or disk) that the Contractor’s possession in connection with the performance of work under this contract against sabotage, espionage, theft, damage, loss, unauthorized disclosure, or misuse. The Contractor shall, upon completion or termination of this contract, transmit to DOE all classified material or special nuclear material in the possession of the Contractor or any person under the Contractor’s control immediately following the completion or termination of the contract, the Contractor shall identify the items and classification levels of all special nuclear material or other classified material that shall be required for the reasons stated in the proposed reason, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the classified material
retained. Special nuclear material shall not be retained after the completion or termination of the contract.

(b) Regulations. The Contractor agrees to comply with all security regulations and contract requirements of DOE as incorporated into the contract.

(c) Definition of Classified Information. The term "Classified Information" means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure, due to its sensitivity as a foreign ownership, control, or influence problem.

(d) Definition of Restricted Data. The term "Restricted Data" means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].

(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means information removed from the Restricted Data category based on a joint determination by DOE and its predecessor agencies of the National Security Council and Department of Defense that the information relates primarily to the military utility of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other recipients required of other information in the Restricted Data category.

(f) Definition of National Security Information. The term "National Security Information" means information that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure and that is marked to indicate its classified status when in a form or medium that contains or reflects that information.

(g) Definition of Special Nuclear Material. The term "special nuclear material" means: (1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material that has been determined, pursuant to Executive Order 12958, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure; and (2) any material that is in the possession or control of the United States (see the Atomic Energy Act of 1954, as amended, of the Atomic Energy Act of 1954); or information determined to require protection against unauthorized disclosure, due to its sensitivity as a foreign ownership, control, or influence problem.

(h) Access authorizations of personnel. (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except as authorized by DOE, the Atomic Energy Act of 1954, or the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required. (2) The Contractor must conduct a thorough review, as defined at 48 CFR 940.401, of an uncleared applicant or uncleared employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

(i) A review must verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.

(j) Contractor reviews are not required for an applicant for DOE access authorization who possesses information from DOE, another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12958, Access to Classified Information (1995), Sections 3.3(c) and (d).

(k) In collecting and using this information to make a determination as to whether it is appropriate to authorize an uncleared employee to hold a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those: (a) governing the individual's information, such as: the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; or any other relevant laws or regulations, including laws and regulations prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer employment disability-related questioning.

(l) In addition to a review, each candidate for a DOE access authorization must be tested for illegal drugs, as defined in 21 CFR Part 707.4. All positions requiring access authorizations are deemed testing designated positions in accordance with 10 CFR Part 707. All employees possessing access to classified information are subject to a random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence from their system of any illegal drug.

(m) When an uncleared applicant or uncleared employee receives an offer of employment, the Contractor, in accordance with DOE access authorization, the Contractor shall not place that individual in such a position prior to the individual's successful completion of the DEA Background Check Program or any other access authorization process required by law or regulation. The Contractor shall not place that individual in such a position prior to the individual's successful completion of the DEA Background Check Program or any other access authorization process required by law or regulation.

(n) The Contractor must maintain a record of information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization. Upon request only, the following information will be furnished to the head of the cognizant local DOE Security Office: (A) A copy of the written offer. (B) Each entity that provided information concerning the individual. (C) A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those: (a) governing the individual's information, such as: the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; or any other relevant laws or regulations, including laws and regulations prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer employment disability-related questioning.

(o) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor, or any occurrence of an event to which the Contractor must sign and submit a copy of the DOE’s form in the event of a noncompliance with any security requirement, and that is the subject of a complaint by the United States.

(p) The Contracting Officer may terminate the contract or any portion thereof and may bid for and award the work to another contractor if the Contractor fails to meet the terms and conditions of the contract or the provisions of this clause. The Contracting Officer may terminate the contract for default if the Contractor shall fail to meet any of the terms and conditions of the contract, and the Contractor shall be held liable for any costs and damages that are incurred as a result of the Contractor’s failure to meet the contract terms.

(q) The Contractor shall be responsible for all costs and expenses incurred in connection with the Contracting Officer’s termination of the contract, including the recovery of any work performed under the contract and the timely payment of all monies due under the contract. The Contractor shall not be entitled to recover any costs or expenses incurred in connection with the termination of the contract, except as specifically provided in the contract.

12. CLASSIFICATION/DECLASSIFICATION (SEP 1977)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of DOE classified information.

13. RIGHTS TO PROPOSAL DATA (MAY 2001)

It is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice appearing on the proposal data, or any contract, the DOE may disclose, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

14. ENVIRONMENTAL PROTECTION (MAY 2001)

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.

15. 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.).

(b) “Clean air standards,” as used in this clause, means -

(1) Federal primary and secondary air quality standards, standards, strictures, 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 applicable implementation procedure or plan under 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 (d)).

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

(5) Clean water standards,” as used in this clause, means any enforceable limitation, control, condition, prohibition, 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
16. ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DECEMBER 2007)

(a) Definition. As used in this clause—

(1) "Energy-efficient product"—

(i) Means a product that—

(A) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label;

(B) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Energy Efficiency Management Program;

(ii) "Product category"—

(A) Means the products are energy-efficient products that are—

(1) Furnished by the Contractor for use by the Government;

(B) Furnished to, or for the account of, any foreign nation;

(C) Furnished to, or for the account of, any person or entity other than the Contractor; and

(D) Furnished to any other entity or person;

(iii) "Product in use"—

(A) Means the product is—

(1) Furnished to, or for the account of, the Government;

(B) Furnished to, or for the account of, any foreign nation;

(C) Furnished to, or for the account of, any person or entity other than the Contractor;

(D) Furnished to any other entity or person;

(b) The Contractor agrees—

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 308 of the Clean Water Act (33 U.S.C. 1328) relating to inspection, monitoring, entry, recordkeeping, and reporting as specified in the award of this contract;

(2) That no portion of the work required by this contract will be performed on the Environmental Protection Agency List of Facilities on the list when the contract was awarded and the EPA eliminates the name of the facility from the list;

(3) To use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed;

(4) To insert the substance of this clause into any nonexempt subcontract, including this subparagraph (b)(4);


18. NOTICE OF RADIOACTIVE MATERIALS (JANUARY 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 materials in excess of 0.01 microcuries of activity per item.

(b) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1965, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this award, shall be marked as follows:

(1) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries.

Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and address of the manufacturer of the materials, and any other information known to the Contractor which will put purchasers on notice as to the hazards involved (OMB No. 9000-0107). *The Laboratory Procurement Representative shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate labeling and handling instructions are provided in a timely manner.

The Contractor may request that the Laboratory Procurement Representative or designee waive the notice requirement (paragraph (a)) for any reason 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 made and the contract office to which it was submitted.

The Contractor shall notify the Laboratory Procurement Representative in writing of the waiver request and shall—

(1) Refer to the contract number on which the prior notification was made;

(2) Furnish all information required under paragraph (a); and

(3) Include a description of the items and the quantities involved.

(b) Cleaning and Disposal

(1) Description. As used in this clause—

(i) "Decontamination"—

(A) Means the removal or removal and stabilization of radioactive materials (individual, nuclear materials, and any containers of such materials) to levels below the applicable regulatory limits or to levels at which the material is no longer radioactive.

(B) "Disposal"—

(A) Means the removal or removal and stabilization of radioactive materials (individual, nuclear materials, and any containers of such materials) in such a manner that they will not be retrievable by any subsequent action.

(ii) "Energy-efficient product" means any product that—

(A) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Energy Efficiency Management Program;

(B) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label;

(c) The Laboratory Procurement Representative may terminate this contract or take other action as appropriate, if the Contractor fails to comply with all the requirements of this clause and paragraph (a).

(d) The Laboratory Procurement Representative may terminate this contract or take other action as appropriate, if the Contractor fails to comply with all the requirements of this clause and paragraph (a).

(e) Except for acquisitions of Commercial items as defined in FAR Part 2, the Contractor shall—

(1) 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

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

(f) The Contractor may request that the Laboratory Procurement Representative or designee waive the notice requirement (paragraph (a)) for any reason 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 made and the contract office to which it was submitted.

The Contractor shall notify the Laboratory Procurement Representative in writing of the waiver request and shall—

(1) Refer to the contract number on which the prior notification was made;

(2) Furnish all information required under paragraph (a); and

(3) Include a description of the items and the quantities involved.

(f) Cleaning and Disposal

(1) Description. As used in this clause—

(i) "Decontamination"—

(A) Means the removal or removal and stabilization of radioactive materials (individual, nuclear materials, and any containers of such materials) to levels below the applicable regulatory limits or to levels at which the material is no longer radioactive.

(B) "Disposal"—

(A) Means the removal or removal and stabilization of radioactive materials (individual, nuclear materials, and any containers of such materials) in such a manner that they will not be retrievable by any subsequent action.

(ii) "Energy-efficient product" means any product that—

(A) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Energy Efficiency Management Program;

(B) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label;
The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontract or purchase orders under this contract, except those described in paragraph (e)(4).

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

1. Contracts for supplies delivered to, or services performed at, a site in the United States or its possessions that are performed by entities that are not required to be registered with the Small Business Administration (SBA).

2. Ocean transportation between foreign countries of supplies purchased with foreign currencies or currencies of countries that are not made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353).

3. Shipments of classified supplies when the classification prohibits the use of non-defense department vessels, and

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

   (i) This clause is —

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

   (B) A construction contract; or

   (ii) The supplies to be purchased are—

   (A) Items the Contractor is reselling or distributing to the Government without adding value. (General Services Administration Contracts does not add value to the items when it subcontracted items for i.e., destination shipment); or

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

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the Office of Costs and Rates, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590. Phone: 202-366-2324.

21. APPLICABLE LAW (OCT 1999)

the law of Illinois shall apply.

This clause does not apply to small business concerns.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the Office of Costs and Rates, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590. Phone: 202-366-2324.

22. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

This clause does not apply to small business concerns.

a. Definitions. As used in this clause,

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

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

   "Commercial plan" means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

   "Electronic Subcontracting Reporting System (eSRS)" means the Government-wide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at http://www.esrs.gov.

   "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. 1621 et seq.), that is recognized by the Federal government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c).

   "Indian tribe's" means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for the performance of a product or service by an Indian tribe.

   "Indian tribe's written designation" means the written designation of an Indian tribe, or written acknowledgement by the Federal government of an Indian tribe under 43 U.S.C. 1626(e). The Indian tribe's written designation must include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated) —

   i. Source lists (e.g., SAM, guides), and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

   ii. 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 and award subcontracts to them. The records shall include at least the following on a plant-wide or company-wide basis, unless otherwise indicated —

   i. Source lists (e.g., SAM, guides), and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

   iii. Records of each subcontract solicitation resulting in an award of more than $150,000, indicating —

   A. Whether small business concerns were solicited and if not, why not?

   B. Whether offers were received on each of the small business concerns included in the solicitation.

   C. Whether small business concerns were solicited and if not, why not?

   D. Whether service-disabled veteran-owned small business concerns were solicited and if not, why not?

   E. Whether small business concerns were solicited and if not, why not?

   F. Whether service-disabled veteran-owned small business concerns were solicited and if not, why not?
2. In order to effectively implement this plan to the extent consistent with efficient contract
management and efficient contract administration:

a. 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 in all "make-or-buy" decisions.

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

c. Counsel and discuss subcontracting opportunities with representatives of small business, service-disabled veteran-owned small business, HUBZone small business, or other disadvantaged small businesses.

2. In the case of a subcontract with a subcontracting plan, with the entity that
awarded the subcontract.

A. Workshops, seminars, training, etc., and
d. Veterans service organizations.

B. Business development organizations;

c. If applicable, the reason award was not made to a small business
contractor shall be submitted for the benefit of small business
concerns in all "make-or-buy" decisions.

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

ii. When a subcontracting plan contains separate goals for the basic contract and each
subcontract, the contractor shall submit a report for each subcontract to the
Government agency awarding the prime contract unless stated otherwise in the
contract.

2. Providing reports under a commercial plan—

ii. Permanent plans, including those established by the Government or Federal agencies
awarding the prime contracts, shall be submitted annually.

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awarding the prime contracts, shall be submitted annually.

2. Providing reports under a commercial plan—

ii. Permanent plans, including those established by the Government or Federal agencies
awarding the prime contracts, shall be submitted annually.
(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall ensure the subcontractor has taken all reasonable actions to assure the subcontractor has the capability to meet the requirements of this clause; if there is no affirmative action to assure the subcontractor has the capability to meet the requirements of this clause, the subcontract shall not be awarded.

(c) Subcontracts or prospective subcontracts shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract price was not itself affected by defective certified cost or pricing data.

(d) Any reduction in the contract price under paragraph (a) of this clause is limited to the amount, plus applicable overhead and profit markup, by which the actual subcontract price was not affected by defective certified cost or pricing data. The reduction must be made to the contract price or the subcontractor's price, as the case may be.

(e) Any reduction in the contract price under paragraph (a) of this clause is limited to the amount, plus applicable overhead and profit markup, by which the actual subcontract price was not affected by defective certified cost or pricing data. The reduction must be made to the contract price or the subcontractor's price, as the case may be.

28. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (AUG 2011)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because:

(1) The contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data;

(3) Any of these parties furnished data of any description that were not complete, accurate, or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimated by the Contractor provided that the actual subcontract cost was not itself affected by defective certified cost or pricing data.

(c) If the Contractor determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.

(ii) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(iii) The Contractor and subcontractor should have known that the certified cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid.

(i) Interest compounded daily, as required by 28 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under section 6622 of title 28, United States Code.

(ii) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted certified cost or pricing data that were incomplete, inaccurate, or nonexistent.

30. CHANGES—FIXED PRICE (OCT 1999)

(a) The authorized Laboratory Procurement Officer may at any time, written order, and without notice to the supplier, if any, make changes within the general scope of the contract in any one or more of the following:

(1) Drawings, designs, or specifications when the supplies to be furnished are to be specifically manufactured for the Laboratory in accordance with the drawings, designs, or specifications.

(2) Method of shipment or packing.

(3) Place of delivery.

(4) Description of services to be performed.

(b) Unless the contract specifically provides for earlier passage of title, title to supplies furnished under this contract shall pass to the Government upon formal acceptance of the supplies by the Laboratory as of the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under section 6622 of title 28, United States Code.

31. EXTRAS (OCT 1999)

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the increase therefore have been authorized in writing by the authorized Laboratory Procurement Officer.

32. RESPONSIBILITY FOR SUPPLIES (OCT 1999)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance by the Laboratory, regardless of when or where the Laboratory takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) The Contractor shall be liable for any loss or damage to supplies shall remain with the contractor until, and shall pass to the Laboratory upon:

(1) Delivery of the supplies to a point of transportation; or

(2) Acceptance by the Laboratory or delivery of the supplies to the Laboratory at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) above shall not apply to supplies that fail to conform to contract requirements or that are defective, as to go to the Government at the time and place of delivery.

(d) The Laboratory shall not be liable for loss or damage to supplies caused by the negligence of officers, agents, or employees of the Laboratory acting within the scope of their employment.

33. INSPECTION OF SUPPLIES—FIXED PRICE (OCT 1999)

(a) Definition. “Supplies,” as used in this clause, includes but is not limited to raw materials, components, intermediate assemblies, end products, and lots of supplies.

(b) The contractor shall provide an accepted quality inspection system acceptable to the Laboratory covering supplies under this contract and shall tender to the Laboratory for acceptance only supplies that have been inspected and tested in accordance with such systems and have been found by the contractor to be in conformity with contract requirements. As part of the system, the contractor shall prepare records evidencing all inspections made under the systems and tests performed thereunder. These records shall be complete and made available to the Laboratory during contract performance and for as long afterwards as the contract requires. The Laboratory may perform on its own or in conjunction with the contractor any inspections and evaluations as reasonably necessary to ascertain compliance with this paragraph. These reviews and evaluations shall be conducted in a manner that will not unduly delay the contract work. The right of review, whether exercised or not, does not relieve the contractor from responsibility for performance of any part of the work under this contract, whether or not changed by the order, or for materials furnished thereunder.

(c) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent practicable, at all places and times, including the period of manufacture, and in any event before acceptance. The Laboratory shall perform inspections and tests in a manner that will not unduly delay the work. The Laboratory assumes no contractual obligation to perform
any inspection and test for the benefit of the contractor unless specifically set forth elsewhere in this contract.

(d) If the Laboratory performs inspection or test on the premises of the contractor or a subcontractor, the contractor shall furnish, and shall require subcontractors to furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Laboratory shall be reimbursed for the cost of the inspection or test at rates not in excess of those charged to the Government. The Laboratory may reject nonconforming supplies with or without disposition instructions. The Laboratory thereby, or make an equitable adjustment in the contract price.

(e) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(f) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(g) The contractor shall remove supplies rejected or required to be corrected. However, the contractor may, at its expense, correct supplies that are not in the contractor's plant or in the contractor's control. The contractor shall have the right to correct nonconforming supplies with or without disposition instructions. The contractor thereby, or make an equitable adjustment in the contract price.

(h) If the Laboratory performs inspection or test on the premises of the contractor or a subcontractor, the contractor shall furnish, and shall require subcontractors to furnish, at no additional charge, all reasonable facilities and assistance for the safe and convenient performance of these duties. Except as otherwise provided in the contract, the Laboratory shall be reimbursed for the cost of the inspection or test at rates not in excess of those charged to the Government. The Laboratory may reject nonconforming supplies with or without disposition instructions. The Laboratory thereby, or make an equitable adjustment in the contract price.

(i) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(3) Nonconformities in the supplies within the delivery schedule, the Laboratory may require their delivery and make an equitable price reduction.

(4) In the event that the contractor fulfills the requirements of this contract, the Laboratory Procurement Official shall make an equitable adjustment in the contract price.

37. WARRANTY OF SUPPLIES (JUNE 2014)

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

38. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) Neither this contract nor any interest therein nor claim hereunder shall be assigned or transferred by the contractor without the consent of the Laboratory. The Laboratory may assign the whole or any part of this contract to the Government or its contractors.

(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 provide the Laboratory with an outline description of the subcontract, a description of the work proposed to be subcontracted, and such other information as the Laboratory shall require.

39. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2014)

(a) Definitions. As used in this clause—

(b) “Subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(c) 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 supplied under this contract.

(i) The Contractor shall insert the following clauses in subcontracts for commercial items:--

(ii) The subcontract must include the applicable FAR Subpart 52.219-1, Utilization of Small Business Concerns (May 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

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

34. INSPECTION OF SERVICES—FIXED-PRICE (AUG 1996)

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

(b) The contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection and test services performed by the Contractor shall be available to the Government at all times during the performance of the services. The contractor shall complete performance of all inspection and test services in accordance with the terms and conditions of the contract and any instructions from the Government.

(c) The contractor shall agree to perform all required inspections or tests at the time specified in the contract. The contractor shall perform all required inspections and tests at no additional cost to the Government. The contractor shall perform all required inspections and tests at any time requested by the Government, but the contractor shall not be required to perform additional inspections or tests unless the Government shall so request.

(d) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(e) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(f) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(g) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(h) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(i) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(j) If the contractor fails to promptly perform, replace, or correct rejected supplies that are nonconforming with the requirements of the contract, the contractor shall be liable for all reasonable costs incurred by the Government in correcting the nonconforming supplies with or without disposition instructions.

(k) Inspectors and tests by the contractor shall not be required to check the contractor's reports of the tests performed by the contractor.

(l) Inspectors and tests by the contractor shall not be required to check the contractor's reports of the tests performed by the contractor.

35. PERMITS OR LICENSES (OCT 1999)

Except as otherwise directed by the Laboratory, the contractor shall procure all necessary permits or licenses and abide by all applicable laws, regulations, and ordinances of the United States and of the State, territory, and political subdivision in which the work under this contract is performed.

36. WARRANTY OF SERVICES (MAY 2014)

(a) Definition. “Acceptance,” as used in this clause, means the act of an authorized representative of the Laboratory of the Laboratory or its authorized agent, or of any person acting for itself, or as authorized by the Laboratory, to acknowledge the completion of an order, to approve the delivery of materials or other services of the contractor, or to give the contractor notice of any defects or nonconformance of the materials or other services of the contractor into the contract requirements.

(b) The Laboratory may require the acceptance of any defective or nonconforming supplies with or without disposition instructions. The Laboratory thereby, or make an equitable adjustment in the contract price.

(c) If the contractor fails to correct or replace any defective or nonconforming supplies with or without disposition instructions.

(d) If the Laboratory does not require correction or reperformance, 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.

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

37. WARRANTY OF SUPPLIES (JUNE 2014)

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

38. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) Neither this contract nor any interest therein nor claim hereunder shall be assigned or transferred by the contractor without the consent of the Laboratory. The Laboratory may assign the whole or any part of this contract to the Government or its contractors.

(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 provide the Laboratory with an outline description of the subcontract, a description of the work proposed to be subcontracted, and such other information as the Laboratory shall require.

39. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2014)

(a) Definitions. As used in this clause—

(b) “Subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(c) 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 supplied under this contract.

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

(ii) The subcontract must include the applicable FAR Subpart 52.219-1, Utilization of Small Business Concerns (May 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(j) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.
40. GOVERNMENT PROPERTY (AUG 2010)

(a) Definitions. As used in this clause—

(1) "Acquisition cost" means the cost to acquire a tangible capital asset including the purchase price and all other costs necessary to bring the asset to a condition necessary for normal or expected use.

(2) "Demilitarization" means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

(3) "Durable, nonexpendable property" means property intended for sale, and does not ordinarily lose its identity or become a component part of the asset to which it is attached when installed.

(4) "Equipment" means a tangible item that is functionally complete for its intended purpose, whether owned by the Government or contractor.

(5) "Equipment-related services" means services performed in connection with the use, operation, or maintenance of equipment.

(6) "Federally controlled assets" means the Federal property described in this contract, which the Contractor is to control operations.

(b) Records of Government property

(1) The Contractor shall have a system to manage (control, use, store, protect, repair, and maintain) Government property in its possession. The system shall be designed to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.

(2) The Contractor’s responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally releved of responsibility by the Government. Included are issues concerning the property, consumption, expending, sale (as surplus property), or disposition (e.g., destruction, destruction for scrap, rework, cannibalization for use as parts, transfer, sale, lease, or donation), and manage any discrepancies between the items documented to have been shipped and items actually received.

(c) Use of Government property

(1) The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Laboratory Procurement Official.

(2) Modifications or alterations of Government property are prohibited, unless they are—

(i) Reasonable and necessary due to the scope of work under this contract or its terms and conditions;

(ii) Required for normal maintenance; or

(iii) Otherwise authorized by the Laboratory Procurement Official.

(3) The Contractor shall not cannibalize Government property unless otherwise provided for in this contract or approved by the Laboratory Procurement Official.

(d) Government-furnished property

(1) The Contractor shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information necessary for the intended use of the property. The warranties of suitability of use and fitness of Government-furnished property are transferable, and shall apply to the property acquired by or fabricated for the Contractor by the Government in performance of this contract.

(2) The delivery and performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance and will be delivered to the Contractor by the dates stated in the contract.
The Contractor shall ensure Government access to subcontractor premises, and all procedures, records, and supporting documentation that pertains to Government property as specified by the schedule within the corrective action plan. Should the Contractor fail to maintain adequate property management practices, the Contractor shall not be held liable.

Subcontractor control:

(A) The Contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions (e.g., extent of liability for loss, theft, damage or destruction of Government property).

(B) The Contractor shall ensure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor’s property management system.

(v) Reports. The Contractor shall not do something to prejudice the Government’s rights to recover against third parties for any loss, theft, damage or destruction of Government property.

(vi) Property transfer and disposal. The Contractor shall not dispose of scrap resulting from production or testing under this contract without Government approval. However, the Contractor may dispose of scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures).

(vii) Relieves of stewardship responsibility. The Contractor shall be relieved of stewardship responsibility for Government property when such property is—

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of this contract, including reasonable inventory adjustments of material as determined by the Property Administrator; or a Property Administrator’s report of the property’s status.

(B) Delivered or shipped from the Contractor’s plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) Utilizing Government property:

(A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator, the Contractor shall not commingle Government material with material not owned by the Government.

(ix) Maintenance. The Contractor shall properly maintain Government property. The Contractor’s maintenance program—

(C) Termination inventory.

(x) Property closeout. The Contractor shall promptly perform and report to the Property Administrator all property closeout, including reporting on maintaining and securing all closure of loss, theft, damage or destruction cases; physically inventoring all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(xi) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and disposals of material and equipment.

(xii) The Contractor shall establish and maintain, as necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(g) System Analysis:

(i) The Government shall have access to the Contractor’s premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor’s property management plan(s), systems, procedures, records, and supporting documentation that pertains to Government property. This access includes property at site locations and, with the Contractor’s consent, all subcontractor premises.

(ii) Records of Government property shall be readily available to authorized Government personnel and shall be appropriately protected. A records control plan shall be prepared by the Contractor and shall be made available to the Government.

(iii) It shall be determined by the Government that the Contractor’s (or subcontractor’s) property management practices are inadequate or not acceptable for the effective management and control of Government property under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan within 30 days of the request by the Property Administrator and take all necessary corrective actions as specified by the schedule within the corrective action plan.

(iv) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at or used by any subcontractor under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan within 30 days of the request by the Property Administrator and take all necessary corrective actions as specified by the schedule within the corrective action plan.

(h) Contractor Liability for Government Property:

(1) Unless otherwise provided for in this contract, the Contractor shall not be liable for loss, damage or destruction of Government property furnished or acquired under this contract, except when any one of the following applies:

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The availability of insurance costs shall be determined in accordance with 32 CFR Part 205.

(ii) In the event of death, injury, sickness, or damage to the Government’s interest arising from the willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel.

(iii) The Government Property Procurement Official has, in writing, revoked the Government’s assumption of risk in accordance with the terms of the contract, but due to a determination under paragraph (g) of this clause that the Contractor’s property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss, theft, damage or destruction of Government property occurred while the Contractor’s property management practices were inadequate, the Contractor shall, at the Government’s expense, furnish to the Government all reasonable assistance and cooperation, including the preparation of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(f) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Government shall not be liable for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

(3) Failure to repair or replace Government property for which the Government is responsible.

(4) Failure to perform or comply with the specifications of the contract.

(5) The Contractor shall not be responsible for any Government property furnished or acquired under this contract.

(6) The Contractor shall not be responsible for any loss, theft, damage or destruction of Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor’s property management plan(s), systems, procedures, records, and supporting documentation that pertains to Government property.

(5) Accounting contract number or equivalent code designation.

(6) Unique-identifier (if available).

(7) Accountable Contract number.

(8) Statement indicating current or future need.

(9) Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.

(10) All known interests in commingled property of which the Contractor is aware.

(11) Cause and corrective action taken or to be taken to prevent recurrence.

(12) A statement that the Government will receive any reimbursement covering the loss, theft, damage or destruction in the event the Government was or will be reimbursed.

(13) Copies of all supporting documentation.

(14) A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(15) Relieves of stewardship responsibility. The Contractor shall be relieved of stewardship responsibility for Government property when such property is—

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of this contract, including reasonable inventory adjustments of material as determined by the Property Administrator; or a Property Administrator’s report of the property’s status.

(B) Delivered or shipped from the Contractor’s plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(16) Utilizing Government property:

(A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator, the Contractor shall not commingle Government material with material not owned by the Government.

(17) Maintenance. The Contractor shall properly maintain Government property. The Contractor’s maintenance program—

(C) Shall make reasonable efforts to return unused property to the appropriate Government authority.

(18) Property closeout. The Contractor shall promptly perform and report to the Property Administrator all property closeout, including reporting on maintaining and securing all closure of loss, theft, damage or destruction cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(19) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and disposals of material and equipment.

(20) The Contractor shall establish and maintain, as necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(21) The Contractor shall have access to the Contractor’s premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor’s property management plan(s), systems, procedures, records, and supporting documentation that pertains to Government property. This access includes property at site locations and, with the Contractor’s consent, all subcontractor premises.

(22) Records of Government property shall be readily available to authorized Government personnel and shall be appropriately protected. A records control plan shall be prepared by the Contractor and shall be made available to the Government.

(23) It shall be determined by the Government that the Contractor’s (or subcontractor’s) property management practices are inadequate or not acceptable for the effective management and control of Government property under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan within 30 days of the request by the Property Administrator and take all necessary corrective actions as specified by the schedule within the corrective action plan.

(24) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at or used by any subcontractor under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan within 30 days of the request by the Property Administrator and take all necessary corrective actions as specified by the schedule within the corrective action plan.

(25) The Contractor shall be responsible for all Government material furnished or acquired under this contract, except as otherwise provided for in the contract.

(26) The Contractor shall not be liable for loss, damage or destruction of Government property furnished or acquired under this contract, except when any one of the following applies:

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The availability of insurance costs shall be determined in accordance with 32 CFR Part 205.

(ii) In the event of death, injury, sickness, or damage to the Government’s interest arising from the willful misconduct or lack of good faith on the part of the Contractor’s managerial personnel.

(iii) The Government Property Procurement Official has, in writing, revoked the Government’s assumption of risk in accordance with the terms of the contract, but due to a determination under paragraph (g) of this clause that the Contractor’s property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss, theft, damage or destruction of Government property occurred while the Contractor’s property management practices were inadequate, the Contractor shall, at the Government’s expense, furnish to the Government all reasonable assistance and cooperation, including the preparation of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(f) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Government shall not be liable for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

(3) Failure to repair or replace Government property for which the Government is responsible.

(4) Failure to perform or comply with the specifications of the contract.

(5) The Contractor shall not be responsible for any Government property furnished or acquired under this contract.

(6) The Contractor shall not be responsible for any loss, theft, damage or destruction of Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor’s property management plan(s), systems, procedures, records, and supporting documentation that pertains to Government property.
41. KEY PERSONNEL (DEC 2000)

(a) The personnel listed in Clause Key Personnel, are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed personnel, the Contractor must:

1. Notify the Laboratory Procurement Official reasonably in advance; and
2. Submit justification including proposed substitutions in sufficient detail to permit evaluation of the impact on this contract; and
3. The Contractor must obtain written approval.

No person in the United States or its outlying areas shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to property).
46. TERMINATION FOR CONVENIENCE OF THE LABORATORY (FIXED-PRICE) (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part, if the Laboratory Procurement Official determines that a termination is in the Government's interest. The Laboratory Procurement Official shall notify the Contractor of the Notice of Termination specifying the date of termination, the work to be terminated, and the basis for the determination.

(b) Within 90 days after receipt of a Notice of Termination, and except as directed by the Laboratory Procurement Official, the Contractor shall take such actions as the Contracting Officer directs to end its performance of the work under this contract.

(c) The Contractor shall terminate all subcontracts to the extent they relate to the work terminated, as required by the Laboratory Procurement Official.

(d) The Contractor shall settle all subcontracts to which termination clauses similar to those in this clause apply.

(e) In arriving at the amount due the Contractor under this clause, there shall be deducted—

1. All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

2. Any claim which the Government has against the Contractor under this contract and

3. Any interest earned by the Government after the effective date of termination on any amounts due the Contractor because of the termination and shall pay the amount determined.

(f) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest earned by the Government after the effective date of termination on any amounts due the Contractor.

(g) If the termination is partial, the Contractor may file a proposal with the Laboratory Procurement Official for equitable adjustment within the time provided in paragraph (e) or (f), respectively, and the proposal shall be decided by the Laboratory Procurement Official, except as provided in paragraph (c)(7).

(h) The proposed adjustment shall be final for all purposes if the Laboratory Procurement Official determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension.

(i) In arriving at the amount due the Contractor under this clause, there shall be deducted—

1. All unliquidated advance or other payments to the Contractor under the terminated portion of this contract.

2. Any claim which the Government has against the Contractor under this contract and

3. Any interest earned by the Government after the effective date of termination on any amounts due the Contractor because of the termination and shall pay the amount determined.

(f) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest earned by the Government after the effective date of termination on any amounts due the Contractor.

(g) If the termination is partial, the Contractor may file a proposal with the Laboratory Procurement Official for equitable adjustment within the time provided in paragraph (e) or (f), respectively, and the proposal shall be decided by the Laboratory Procurement Official, except as provided in paragraph (c)(7).

(h) The proposed adjustment shall be final for all purposes if the Laboratory Procurement Official determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension.

(i) In arriving at the amount due the Contractor under this clause, there shall be deducted—

1. All unliquidated advance or other payments to the Contractor under the terminated portion of this contract.

2. Any claim which the Government has against the Contractor under this contract and

3. Any interest earned by the Government after the effective date of termination on any amounts due the Contractor because of the termination and shall pay the amount determined.

(f) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest earned by the Government after the effective date of termination on any amounts due the Contractor.

(g) If the termination is partial, the Contractor may file a proposal with the Laboratory Procurement Official for equitable adjustment within the time provided in paragraph (e) or (f), respectively, and the proposal shall be decided by the Laboratory Procurement Official, except as provided in paragraph (c)(7).

(h) The proposed adjustment shall be final for all purposes if the Laboratory Procurement Official determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension.
(b) If the Laboratory terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Laboratory considers appropriate, supplies or services similar to those terminated, and the contractor will be liable to the Laboratory for any excess costs for those supplies or services. However, the contractor shall continue the work not terminated.

(c) Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, floods, 5 (4) epidemics, (5) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In the event of the failure to perform beyond the control and without the fault or negligence of the contractor,

(d) The contractor shall perform the contract or subcontract in accordance with the type and methods required for the work. If the contractor has no reason to believe that the work will be performed in accordance with the type and methods required, and if the cause of the default is beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure of subcontractors to perform, unless the subcontractors should have been obtainable from other sources in sufficient time for the contractor to meet the required delivery schedule.

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

(f) The Laboratory shall pay the contractor the price for completed supplies delivered and accepted. The rights and obligations of the Laboratory and the contractor shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. The Laboratory may withhold from these amounts any sum the Laboratory determines to be necessary to protect the Laboratory's property. The contractor shall bear the cost of any property in its possession in which the Laboratory has an interest.

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

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

48. ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) Definitions

(1) "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any person who has entered into a contract with the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

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

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

(4) "Subcontract," as used in this clause, means a contract or contractual action entered into by a person subject to the jurisdiction of the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract.

(5) "Subcontractor," as used in this clause, means any person, other than the prime contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract or subcontract.

(6) "Subcontractor employee," as used in this clause, means any person who offers to furnish or furnishes general supplies to the prime contractor or a higher tier subcontractor.

(7) "Person," as used in this clause, means an individual, corporation, company, association, authority, firm, partnership, public authority, a special district, an intrastate district, a council of governments, a sponsor or other representative organization, and any other instrumentality of a local government.

(8) "Influencing or attempting to influence" means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, or an officer of Congress, or a Member of Congress or an officer of Congress in connection with any covered Federal action.

(b) Requirements

(1) An individual who is appointed to a position in the Government under Title 5, United States Code, or is an individual who is entitled to any retirement or disability benefits, or any individual who is entitled to a retirement or disability benefit under Federal law.

(2) Any person who, while acting as an officer of a corporation, a company, association, or any other organization, or in any capacity in connection with the performance of any required act, has any right, power, privilege, or duty, directly or indirectly, which is personally owned, under a Federal contract.

(3) Any person who is employed by the United States or any other Federal agency or instrumentality to perform services for which the rate of compensation is fixed or determines the rate of compensation.

(c) Non-Fraud Offenses

(1) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor reimburse the Government for any monies owed by the United States under the prime contract and/or for which the Government has included the kickback as a direct item of cost under this contract or for which the contractor has included the kickback in the cost charged to the laboratory.

49. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any services that are of the kind that have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any other contract or subcontract entered into in connection with such prime contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of computer software, the Contractor may rely only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being improperly restricted from acquiring computer software from any other prospective purchaser for the sake of the commercial item(s).

(c) Upon receipt of notice that the Contractor has failed to comply with the requirements of paragraphs (a) and (b) of this clause, the Laboratory may recover from the Contractor all reasonable 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.

50. RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)

APPLICABLE TO CONTRACTS WHICH EXCEED $100,000

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with a subcontractor, in any form whatsoever (including a written agreement) that has the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any other contract or subcontract entered into by the subcontractor in connection with such prime contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of computer software, the Contractor may rely only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being improperly restricted from acquiring computer software from any other prospective purchaser for the sake of the commercial item(s).

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

51. PAYMENTS (FEB 2004)

(a) Payment shall be made for items accepted by the Laboratory that have been delivered to the designated site of performance at the time the items are ready for acceptance.

(b) The Laboratory shall make payment at the time of acceptance at the place where the item is delivered.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.
35. BUNKRUY (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 Federal Acquisition Service’s Office of Hearings and Administrative Advocacy. Such notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a complete list of the contract numbers for all Laboratory contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

54. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, transportation or entertainment facilities, employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member in connection with any covered Federal actions. In accordance with 31 U.S.C. 1352 the Contractor shall not use segregated facilities, except in (A) cases where the contractor's policy or procedures are directly related to this contract; and (B) where the contractor has written certification that the contractor has a segregation of facilities policy that is equivalent to the standards provided in (A), and that the segregation of facilities is consistent with the requirements for federally assisted or supported programs or activities.

55. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

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

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

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 829 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239). The contractor shall inform its employees in writing, in the predominant language of the workforce, of the requirements for protection as provided under 41 U.S.C. 4712, as described in section 3308 of the Federal Acquisition Regulation.

(b) The contractor shall have the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

57. 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) Definition. “Commercially available-off-the-shelf (COTS) item,” as used in this clause—

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

(A) For services rendered directly in the performance of a Federal action, is acquired or used by the Government to meet a requirement imposed by or pursuant to law, or

(B) For professional or technical services rendered directly in the performance of a Federal action, is acquired or used by the Government to meet a requirement imposed by or pursuant to law.

(b) The contractor shall not enter into any subcontract in excess of $30,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 to certify that the contractor’s products or services are not available commercially, or to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) The Government, a contractor, or a subcontractor may terminate any contract, subcontract, or purchase order for failure to comply with the provisions of this clause without prejudice to the rights and remedies of either party under the Federal Acquisition Regulation.

58. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

(1) “Commercial sex act” means any sex act on account of which anything of value is given to or received by any person,

(b) Contractors that acquire any service or item described in paragraph (c) shall require their subcontractors to comply with the requirements of this clause.

(c) The contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.
59. RESEARCH MISCONDUCT (JUL 2005)

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

(b) Unless otherwise instructed by the Laboratory Procurement Official (LPO), the contractor must not engage in any activity that may be considered research misconduct as defined by this clause, and the conduct of inquiries, investigations, and adjudication of allegations of research misconduct as defined by this clause, and the conduct of inquiries, investigations, and adjudication of allegations of research misconduct in accordance with the requirements of this clause.

(c) Contractor is responsible for maintaining the integrity of research performed pursuant to this contract, including the prevention, discovery, elimination, and remediation of research misconduct.

(d) The contractor shall coordinate, 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 an individual(s) who conducted the inquiry or investigation.

30. LABORATORY SITE ACCESS AND OR PARTICIPATION IN ACTIVITIES BY 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 in a timely manner on Form ANL-593. ANL-593 is valid for 30 days or less (for visits of 30 days or less) or assignments (for visits on-site for more than 30 days in a 12-month period). A certified host must be assigned to each on-site visit. Form ANL-593 must be submitted on Form ANL-593. Non-U.S. citizens are either workers, if the visit is for a period of less than 30 days, or visitors, if the visit is for a period greater than 30 days. For assignments involving a non-national from a "Sensitive Country", and/or involving access to a security area of the Laboratory or access to a sensitive subject, at least 30 days advance notice of the visit should be provided to the laboratory, and all security procedures must be followed. The contractor shall coordinate, 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 an individual(s) who conducted the inquiry or investigation.

Activity Participation

For assistance in preparing a request, contact the Argonne Technical Investigator associated with your activity. For assistance in preparing a request, contact the Argonne Technical Investigator associated with your activity. For assistance in preparing a request, contact the Argonne Technical Investigator associated with your activity.
62. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2002)

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is excepted from U.S. export control regulations, the Laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls.

An export can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their country are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technologies. Prior to transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:

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

To further prevent that you do not run the risk of exposing sensitive information or technology when traveling abroad, keep the following guidelines in mind that without having acquired an export license prior to your trip, presentations and discussions must be limited to only those topics that are not on the DOE Sensitive Subjects List and the Argonne Sensitive Technologies and not related to controlled items or technologies unless they are in the public domain. Further elaboration, or additional details, may be considered an export of technologies and need an export license prior to release.

63. CONFLICTS OF DOCUMENTATION (MAY 2001)

Any discrepancy, inconsistency, or conflict in the SCHEDULE or in one or more of the documents identified in the article entitled, "Applicable Documentation", which can be reasonably ascertained by the contractor shall be immediately submitted to the laboratory for its written decision. Any work undertaken by the contractor without such decision shall be at the contractor’s own risk.

64. LIMITATIONS PERIOD (MAY 2001)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract must be initiated in writing to the Laboratory Procurement Officer. Failure to do so within 2 years (unless an earlier period is stated elsewhere in the contract) after the completion of work under the contract or after the cause of action has arisen, whichever occurs first, otherwise the contractor shall be barred from pursuing such action.

65. VEHICLE LIABILITY INSURANCE COVERAGE (AUG 2001)

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

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

(a) Definitions: As used in this clause—

"Driving"—

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

"Text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, electronic device, including for the purpose of short message service texting, e-mailing, instan... messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13553, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009.

(c) The Contractor is encouraged to—

(1) Adopt and enforce policies that ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) Subcontracts: The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

67. INTEGRATION CLAUSE (MAY 2001)

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

68. TECHNICAL STANDARDS PROGRAM (FEB 2011)

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

1. In the performance of this contract, the Contractor, when participating in the development of Department of Energy (DOE) Technical Standards, conducting technical standards review activities, and selecting technical standards for use to support assigned DOE missions and functions, must—

2. Select, use, adhere to appropriate voluntary consensus standards (VCSs), except where use of VCSs is inconsistent with law or impractical. (Note: VCSs are defined as standards developed or adopted by voluntary consensus standards bodies, both domestic and international.)

3. Participate as appropriate in development and review of those DOE Technical Standards where the contractor has technical or programmatic interests, or will be affected by the content of DOE Technical Standards under development, or as directed by the Contracting Officer.

4. Designate and provide support for a coordinator for technical standards activities, including identification of the appropriate Subject Matter Experts to review draft DOE Technical Standards.
# 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:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>J</td>
<td>Jinn Har (TW)</td>
</tr>
</tbody>
</table>

### Grade 8 Fasteners with the Following Manufacturers' Headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Asahi Mfg. (JP)</td>
</tr>
<tr>
<td>NF</td>
<td>Nippon Fasteners (JP)</td>
</tr>
<tr>
<td>H</td>
<td>Hinomoto Metal (JP)</td>
</tr>
<tr>
<td>M</td>
<td>Minamida Sieybo (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
</tr>
</tbody>
</table>

- Hollow Triangle: Infasco (CA TW JP YU) (Greater than 1/2 inch dia)
- E: Daiei (JP)

### Grade 8.2 Fasteners with the Following Headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

### Grade A325 Fasteners (Bennett Denver Target Only) with the Following Headmarks:

- **Type 1**: A325 KS Kosaka Kogyo (JP)
- **Type 2**: A325 KS Kosaka Kogyo (JP)
- **Type 3**: A325 KS Kosaka Kogyo (JP)

Headmarkings are usually raised – sometimes indented.

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

Any bolt on this list should be treated as defective without further testing. Or, if you see any indication that a circuit breaker may be used or refurbished see: [http://www.saftek.com/worksafe/bull82.txt](http://www.saftek.com/worksafe/bull82.txt)