APPENDIX A
ARGONNE TERMS AND CONDITIONS
(For Labor-Hour and Time and Materials 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. Eligible employee means a current or former employee of a contractor or subcontractor employed by the Director of Energy Defense and Nuclear Facility (1) whose period of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has met the eligibility criteria contained in the Department of Energy guidance for contractors and subcontractors whose employment is being terminated during the contract period, or (3) who is eligible for a particular job vacancy with the Department or one of its contractors willing and able 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 permitted by a supplemental agreement entered into with the Department at the time, a contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.

(d) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 603) 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 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.

(c) "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.

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

(e) "Improper 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 matter under investigation and pertinent to the matter under investigation.

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 Washington, D.C.

(b) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is a awarded no more than contract or subcontract that have an aggregate value in excess of $10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

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

(d) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a public announcement preference in employment to Indians living on or near an Indian reservation, in connection with the recruitment opportunities or on an Indian reservation, as permitted by 41 CFR 60-2.1.

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

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

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

(g) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, list all qualified applicants for consideration for employment without regard to race, color, religion, sex, or national origin.

(h) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representatives of the Contractor's nondiscrimination policy and the terms of the notice in conspicuous places available to employees and applicants for employment.

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

(j) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and subcontracting plans, and subcontractors shall subject to the same requirements contained in the notice in conspicuous places available to employees and applicants for employment.

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

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

(m) Layoff or termination;

(n) Recruitment or recruitment advertising;

(o) Employment;

(p) Upgrading;

(q) Recruitment or recruitment advertising;

(r) Layoff or termination;

(s) Selection for training, including apprenticeship.

4. EMPLOYMENT REPORTS VETERANS (JUL 2014)

(a) Definitions. As used in this clause, "Active forces service medal veteran," "disabled veteran," "active duty wartime or campaign badge veteran," and "recently separated veteran," have the meanings given in FAR 22.1313.

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

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

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

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

(4) Employment activity reports required by paragraph (b)(2) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date—

(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 104).

(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-identity (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 22.1313.

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

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to properly implement the provisions of this clause.

6. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496: APPROVAL (APPLIED TO CONTRACTS EQUAL TO OR GREATER THAN $10,000)

(A) This clause is to be included in contracts, subcontracts, and related documents to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the non-agricultural sector. NLRA coverage will be determined in the case of any contract or subcontract entered into after the date the contractor was notified of the National Labor Relations Board (NLRB) determination that the contractor is subject to the NLRA to organize and bargain collectively with their employees and to engage in other protected concerted activity, and the NLRB subsequently certifies a labor organization as the bargaining agent for the employees. The contractor is responsible for obtaining a copy of the NLRB determination from the NLRB in the event of a dispute involving interpretation of the NLRA. The contractor shall post the NLRA notice in conspicuous places available to employees covered under the NLRA. The notice in (B) below is an example of a reasonable alternative to the NLRA notice approved by the NLRB. The contractor is responsible for obtaining a copy of this notice from the NLRB or an authorized representative of the NLRB. The contractor shall provide the NLRB or its authorized representative with a copy of the notice after its posting.

(B) Obtaining Copies of the Notice of Employee Rights

Executive Order 13496 Notice of Employee Rights, in Adobe Reader (.pdf) format, can be downloaded from the link: http://www.dol.gov/olms/regs/compliance/EmployeeRightsPoster11x17_Final.pdf. If you are not able to download the notice, or if you seek a hard copy of the notice, you can send a request to olms@dol.gov, send your request via FedEx or call (202) 693-3300 within 30 days after first publication. The contractor shall post the notice in the following locations (in exact duplicate copies of the official notice):

• Notice of Employee Rights Under Federal Labor Laws - 11x17-inch one-page format (PDF)
• Notice of Employee Rights Under Federal Labor Laws - 11x8.5-inch two-page format (PDF)
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 a manner, and containing such content as prescribed by the Secretary of Labor, conspicuously in 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(b) and (f).

(b) Physical posting of the employee notice shall be maintained for 30 calendar days after the date of 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 relating to the performance of the contract.

(c) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the employee notice electronically by framing the notice prominently on any website that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor-Web site that contains the above referenced notice, and the electronic link to the Department of Labor-Web site, as referenced in (b)(3) of this section, must read, “Important Notice about Employee Rights to Organize and to Bargain With Their Employers.”

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

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, 200 Constitution Avenue, NW, Room N-8690, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

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

(3) Downloaded from the Office of Labor-Management Standards Web site at http://www.dol.gov/olmsregs/compliance/ECS13496.htm; or

(4) Reproduced and used as exact duplicates of the cover of Department of Labor’s official poster.

(e) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR 471.41.

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

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

Subcontracts

(1) The Contractor shall include the substance of this clause, including this paragraph (h), in every subcontract that exceeds $10,000 and in any performance work or portion of performance work performed outside the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontract.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(h) 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.

(i) If, however, the Contractor becomes involved in litigation with a subcontractor, or is threatened with such an action by such a subcontractor, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

B. EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013)

(a) Definitions. As used in this clause—

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

(i) Any item of supply that—

(A) A commercial item (as defined in paragraph (1) of the definition at 210.1); or

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

(ii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(B) Does not include furniture and personal property identified at 48 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR §525.12(c), “bulk cargo” means cargo that is loaded and carried in bulk, that is, without mark or count, in a loose or unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count

“Employee assigned to the contract” means an employee who was hired after November 6, 1988 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if—

(i) Normally performs support work, such as indirect or overhead functions; and

(ii) Does not perform work in support of the contract.

“Subcontract” means any contract, as defined in 22.201, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes—

(i) A purchase order, and all changes and modifications to purchase orders; and

(ii) A contract awarded by use of the procedures prescribed at 22.1803

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to a prime Contractor or another subcontractor.

“United States,” as defined in 48 U.S.C. 1001(4), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

(1) If the Contractor is identified as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

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

(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire; or from any field office of the Office of Federal Contract Compliance Programs or Office of Labor-Management Standards.

(iii) Enroll new employees. 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, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(iv) Enroll 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, within 30 days after the date of hire (but see paragraph (b)(3) of this section); or

(v) Enroll 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, within 30 days after the date of hire (but see paragraph (b)(3) of this section).

(2) The Contractor shall—

(i) Enroll employees. Within 90 calendar days of contract award, a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(A) Enrolled 90 calendar days or more. 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, within 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, within 3 business days after the date of hire (but see paragraph (b)(3) of this section).

(ii) Enroll new employees. 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, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(iii) Enroll 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, within 30 days after the date of hire (but see paragraph (b)(3) of this section); or

(iv) Enroll 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, within 30 days after the date of hire (but see paragraph (b)(3) of this section).
(e) Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means information that has been determined to be special nuclear material, but does not include source material; or (2) can be adequately protected as secret military information. An individual employed by a contractor or subcontractor shall not be subject to the terms of this clause unless and until that individual possesses an access authorization from DOE or another Federal Government Original Classifier.

12. CLASSIFICATION/DECLASSIFICATION (SEP 1997)

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 information, documents, or material. In this section, "information" means facts, data, or knowledge, and "material" means the physical medium on or in which information is recorded; and "classified" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" (classified under the Atomic Energy Act of 1945, as amended) and the "National Security Information" (classified under Executive Order 12958 or prior orders).

The original decision to classify or declassify information is considered an inherently governmental function. Access to all classified information and documents is limited to those individuals who have been determined to require access in the performance of their duties. Other personnel (Government or contractor) may serve as derivative classifiers in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations. The contractor or subcontractor shall ensure that such review results in a determination to classify or declassify the information which is restricted to the contractor.

In addition, the contractor or subcontractor shall ensure that the information is adequately protected while in its possession or under its control. The contractor or subcontractor shall implement a classified document control program in accordance with Executive Order 12958 and DOE directives and classify/declassify guidance furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). 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The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a government or contractor "Derivative Classifier" in accordance with classification regulations including mandatory DOE directives and classified/declassified information furnished to the contractor by the Department of Energy to contain classified information which is not addressed in the classified document(s). The contractor or subscripto
14. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

Unless otherwise exempted, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections III(a) and (g), and section 6627 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13216). The Contractor shall, for each facility subject to Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(a) A Contractor-owned or -operated facility in the performance of this contract is exempt from the requirement to file an annual Form R if —

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 727.55.

(2) The facility does not have 10 or more full-time employees as specified in section 113(b)(1)(A) of PPA, 42 U.S.C. 13212(b)(1)(A).

(b) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, of:

(1) The facility is not located in the United States or its outlying areas.

(2) The Contractor has not been served with a Federal Court Order prohibiting the Contractor from filing Form R.

(3) The Contractor has not been served with a notice of proposed penalty under section 113(e) of the PPA, 42 U.S.C. 13212(e).

(c) If available, the contractor, in performing work under this contract, shall use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts for radioactive or toxic chemical release filing and reporting requirements.

[To be filed in by Laboratory Procurement Representative]

15. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, at least 30 days before the delivery of, or prior to completion of any servicing required by this contract of:

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

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

Such notice shall specify the parts or pieces of the items which contain radioactive material, a description of the materials, the name and activity of the isotope, the reporter of the materials, and the other information which will put the users of the items on notice as to the hazards involved (OMB No. 9000-1007).

(b) The Contractor shall take all necessary steps to prevent accidental exposure, minimize exposure, and to inform all personnel who will receive the radioactive material as to the necessity of safety and health precautions.

16. ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

(a) Definition. As used in this clause—

“Energy-efficient product”—

(1) Means a product that—

(i) Satisfies the requirements of the Energy Star program administered by the U.S. Environmental Protection Agency.

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Energy Star program.

(iii) Is in the upper 25 percent of efficiency for all similar products as designated by subtitle C (42 U.S.C. 8259b et seq.), or 5171, 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(iv) The facility is not located in the United States or its outlying areas.

(b) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, of:

(1) The Contractor has not been served with a Federal Court Order prohibiting the Contractor from filing Form R.

(2) The Contractor has not been served with a notice of proposed penalty under section 113(e) of the PPA, 42 U.S.C. 13212(e).

(c) If available, the contractor, in performing work under this contract, shall use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts for radioactive or toxic chemical release filing and reporting requirements.

[To be filed in by Laboratory Procurement Representative]

17. SUBMISSION OF TRANSPORTATION DOCUMENTS FOR AUDIT (FEB 2006)

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

(i) By the Contractor under a cost-reimbursable contract; and

(ii) By a first-tier subcontractor under a cost-reimbursment subcontract thereunder.

(b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding $100 and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to transportation documents as defined in paragraphs (a)(i) and (ii).

(c) Contractors shall submit the above referenced transportation documents to—

[To be filed in by Laboratory Procurement Representative]

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

(a) Definitions. As used in this clause—

“international air transportation means transportation by air between a place in the United States and a place outside the United States or between two places outside the United States.

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® Program or FEMP).

(c) (1) The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the Form R throughout the life of the contract.

(2) Otherwise approved in writing by the Contracting Officer.

(d) The term “product” does not include any energy-consuming product or system designed or procured for combat or combat-related missions (2 U.S.C. 2353); or

(e) Sponsoring U.S. Government agency.

(f) Description of commodity.

(g) Port of loading.

(h) Vessel flag of registry.

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

(j) Date of loading.

(k) Vessel arrival.”

(3) Furnished by the Contractor for use by the Government; or

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility.

19. PREFERENCE FOR PRIVATELY OWNED U.S. - FLAG COMMERCIAL VESSELS (FEB 2006)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appx 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 25 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are—

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

(2) Furnished for a contract or fee basis); or

(3) Furnished for the accounts of the cargo owner, by any vessel or vessel's agent, on the basis of claims or vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG COMMERCIAL VESSELS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign underwater air carrier service for the following reasons (see Section 474.903 of the Federal Acquisition Regulation):

[State reasons]:

End of Statement

The contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase order under this contract that may involve international air transportation.
20. APPLICABLE LAW (OCT 1999)

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

21. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

This Clause Does Not Apply To Small Business Concerns.

a. Definitions, 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. 1611, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 41 U.S.C. 665(e)(1). This definition includes all ANCs directly and indirectly related to the parent corporation, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626 (e)(2).

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

"Commercial item" means a subcontracting plan (including goals) that covers the offering'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., a geographic region, a line of business, a product line, etc.).

"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 Alaska Native corporations) that are organized by the Kena, Juneau, Sitka, and Kodiak as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

"Indian tribe subcontract plan" means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract except that indirect costs incurred as common or joint costs may be prorated over the contract period. "Master plan" means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

"Subcontract" means any agreement (other than one involving employee retention) entered into by a Federal (Federal contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract).

b. The offeror may be requested by the Labor Department, the Legal Advisor, the Corps of Engineers, or the Contracting Officer to negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small disadvantaged business concerns, veteran-owned small business, service-disabled veteran-owned small businesses, HUBZone small businesses, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant subcontract. The subcontracting plan shall be negotiated within the time specified by the Laboratory Procurement Official or the Contracting Officer. The offeror shall submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

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

1. Goals, expressed in terms of percentages of subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all contracts that contribute to contract performance, and may include a proportionate share of products and small business that are allocated indirectly as costs, in accordance with 43 U.S.C. 1626:

i. Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged businesses (SBDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

ii. Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the appropriate contractor(s) shall count the subcontract towards its small business and small disadvantaged business subcontracting goals.

iii. Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe shall designate only a portion of the total subcontract award to each contractor. The sum of the amounts designated to all subcontractors cannot exceed the total dollar value of the subcontract.

iv. The ANC or Indian tribe shall have a written agreement with the contractor to subcontract the ANC or Indian tribe. The subcontractors in between the prime contractor and the ANC or Indian tribe within 30 days of the date of the subcontract.

v. If the Contracting Officer does not receive a copy of the ANC’s or the Indian tribe’s written designation of subcontractors within 30 days of the date of the subcontract, the contractor shall be considered the designated contractor.

2. A statement of:

Ⅰ. Dollars planned to be subcontracted to an individual contract plan; or the offeror’s total projected sales, expressed in dollars, and the value of total projected subcontract to support the sales for a commercial plan;

Ⅱ. Dollars planned to be subcontracted to small business concerns (including ANCs and Indian Tribes);

Ⅲ. Dollars planned to be subcontracted to service-disabled veteran-owned small businesses;

Ⅳ. Dollars planned to be subcontracted to HUBZone small business concerns;

Ⅴ. Dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

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

Ⅶ. A description of the prime types of supplies and services to be subcontracted, and an identification of the types of plan subcontracting to--

Ⅲ. Small business concerns;

Ⅳ. Veteran-owned small business concerns;

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

Ⅵ. HUBZone small business concerns;

Ⅶ. Small disadvantaged business concerns, and Women-owned small business concerns.

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

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

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

Ⅰ. Small business concerns (including ANCs and Indian tribes);

Ⅱ. Veteran-owned small business concerns;

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

Ⅳ. HUBZone small business concerns;

Ⅴ. Small disadvantaged business concerns (including ANCs and Indian tribes); and

Ⅵ. Women-owned small business concerns.

6. A statement of the methods by which the offeror will determine the proportionate share of indirect costs to be incurred with

Ⅰ. Small business concerns (including ANCs and Indian tribes);

Ⅱ. Veteran-owned small business concerns;

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

Ⅳ. HUBZone small business concerns;

Ⅴ. Small disadvantaged business concerns (including ANCs and Indian tribes); and

Ⅵ. Women-owned small business concerns.

7. The name of the individual employed by the offeror who will administer the offeror’s subcontracting program, and a description of the duties of the individual.

8. A statement of the factors that the offeror will consider in determining whether to include subcontracting plans in all subcontract offerings, further subcontracting opportunities, and that the offeror will consider all subcontractors (except small business concerns) in the offeror’s subcontracting plan and determine the extent to which offerors have an equitable opportunity to compete for contracts.

9. A statement of the offeror’s internet address and any further subcontracting opportunities that provide for construction of a minority-owned small business, or a woman-owned small business, or a veteran-owned small business.

10. A description of the offeror’s outreach, assistance, counseling or publicizing subcontracting opportunities that provide for construction of a minority-owned small business, or a woman-owned small business, or a veteran-owned small business.

11. A statement of the types of contracts that will be maintained concerning procedures that have been adopted or developed by the offeror to solicit subcontracting opportunities; the plans, including establishing source lists; and a description of the offeror’s efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following information for each subcontractor, contractors (as otherwise indicated):

Ⅰ. Source lists (e.g., SAM), or 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. Organizational charts or by any means, to determine the construction of a minority-owned small business, or a woman-owned small business, or a veteran-owned small business.

Ⅲ. Records of each subcontract solicitation resulting in an award in a dollar amount exceeding $10,000:

Ⅰ. Whether small business concerns were solicited and, if not, why not;

Ⅱ. Whether veteran-owned small business concerns were solicited and, if not, why not;

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

Ⅳ. Whether HUBZone small business concerns were solicited and, if not, why not;

Ⅴ. Whether small disadvantaged business concerns were solicited and, if not, why not;

Ⅵ. Whether women-owned small business concerns were solicited and, if not, why not;

Ⅶ. If applicable, the reason award was not made to a small business concern.

Ⅳ. Records of any efforts to contact –

Ⅰ. Trade associations;

Ⅱ. Business development organizations;

Ⅲ. Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

Ⅳ. Veterans service organizations.

Ⅴ. Records of internal guidance and encouragement provided to buyers through –

Ⅰ. Outreach, assistance, counseling, or publicizing subcontracting opportunities.

Ⅵ. On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of

(A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items.

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

1. Contingency operations;

2. Exercises; or


Guidance regarding fair and reasonable prices for privately owned U.S.flag commercial vessels may be obtained from:

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-366-2324
each subcontractor. Contractors having commercial plans need not comply with this requirement.

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

1. Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, subcontracts, specifications, and other assistance as necessary and as to facilitate the performance of small business concerns by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to perform over a period of time.

2. Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

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

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

5. Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as a small business concern and an apparent non-conformity with requirements of subcontracting plans of the offeror. In an HUBZone small, small disadvantaged or women-owned small business concern for the purpose of obtaining a subcontract that is to be included as part of or all of a goal contained in the Contractor's subcontracting plan.

6. For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

a. A master plan on a plant or division-wide basis that contains all the elements required by paragraph (c) of this clause except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

1. The master plan has been approved;

2. The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Office;

3. Goals and any deviations from the master plan deemed necessary by the Contracting Office to satisfy the requirements of this contract are set forth in the individual subcontracting plan for each subcontractor.

f. A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The contractor shall notify the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contractor. The commercial plan has been approved, the Government shall not require another subcontracting plan from the same contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A contractor with a commercial plan shall comply with reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by the commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

g. Prior to award of any subcontract, the offeror shall require each subcontractor to submit under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

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

Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 41 CFR §19.752-27. Subcontracts are not required to Implement Specific Orders—Commercial Items, or when the subcontractor provides a commercial item subject to clause at §22.544-6, Subcontracts for Commercial Items, under a prime contract.

Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 41 CFR §19.752-27. Subcontracts are not required to Implement Specific Orders—Commercial Items, or when the subcontractor provides a commercial item subject to clause at §22.544-6, Subcontracts for Commercial Items, under a prime contract.

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

1. The clause of this contract entitled “Utilization of Small Business Concerns,” or

2. Any applicable Federal or state laws or regulations concerning the procurement of other than small business subcontractor material through the subcontractor.

The Contractor shall submit ISRs and SSRs using the web-based eSRS at http://www.esrs.gov.

ii. The authority to acknowledge receipt or reject the ISR resides—

1. With the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan for each subcontractor.

The report shall be submitted semi-annually during contract performance for the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a proportional NAICS Industry Subsector report and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

22. PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2012)

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

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

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

23. NOTICE TO THE LABORATORY OF LABORATORY OFFICES (OCT 1999)

(a) If the contractor has knowledge that any actual or potential labor dispute is delaying or threatens the timely performance of this contract, the contractor shall immediately give notice, including all relevant information, to the Laboratory.

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

24. REPORTS (OCT 1999)

The contractor shall furnish intermediate reports to the Laboratory from time to time when requested, in such form and number as may be required by the Laboratory, summarizing the activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

25. RIGHTS TO PROPOSAL DATA (AUG 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, the Government shall have the right to use, duplicate and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

26. SUBCONTRACTOR COST OR PRICING DATA (OCT 2010)

(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 52.403-4, 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 52.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 52.408, Table 15-2 (to include information concerning the dispute).

(ii) The contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 52.403-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(iii) If each subcontract that is expected to exceed the threshold for submission of certified cost or pricing data at FAR 52.403-4, when entered into, the Contractor shall insert either—

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of certified cost or pricing data for the subcontract, or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Certified Cost or Pricing Data—Modification.

27. SUBCONTRACTOR COST OR PRICING DATA—MODIFICATIONS (OCT 2010)

(a) The requirements of paragraphs (b) and (c) of this clause shall—

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 52.403-4, and

(2) Be subject to such modifications.

(ii) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 52.403-4, on the date of agreement on price or the date of award, whatever 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 52.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 52.408, Table 15-2 (to include information concerning the dispute).
or by specific identification in writing, in accordance with FAR 15.408, Table 15-2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgment factors applied and the methodologies used, or other methods useful to the Government, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

(c) The Government shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause are complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract to which this clause applies, and shall certify, as if such subcontract were a subcontract under paragraph (a) of this clause, that the subcontractor has complied with the requirements of FAR 15.406-2 on the date of agreement on the price or the date of award, whichever is later.

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 its 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 as the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price 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, by which (1) the actual subcontract cost or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontractor cost estimate submitted by the Contractor; provided, that the actual subcontract cost was not itself affected by defective certified cost or pricing data.

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

(1) 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 cost or pricing data had been submitted.

(2) The Contracting Officer 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.

(3) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(d) The Contracting Officer certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the data submitted to the Contracting Officer in accordance with FAR 15.406-2, that the data were not submitted before such date.

(e) An offset shall not be allowed if—

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data;

(B) The Contractor proves that the certified cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data;

(C) The Government shall be entitled to a price reduction for the amount of excessive pass-through charges.

30. LIMITATIONS ON PASS-THROUGH CHARGES (AUG 2009)

This clause applies to contracts in excess of $100,000. Defined. As used in this clause—

"Added value" means that the Contractor performs subcontract management functions that the Contracting Officer determines are a benefit to the Government (e.g., purchasing or technical assistance for the Government by the Contractor or subcontractor that adds no or minimal value to the total work to be performed).

"Change" means a change in the contract price or the modification of contract requirements, coordinating deliveries, performing quality assurance functions, or other actions that result in the Contractor or subcontractor receiving an advantage or benefit by reason of the change.

"Contractor" means any contractor, supplier, subcontractor, or by specific identification in writing, in accordance with FAR 15.408, Table 15-2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgment factors applied and the methodologies used, or other methods useful to the Government, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

(c) Except as provided in paragraph (f) of this clause, the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(f) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not the change is authorized by the Contracting Officer, the Contractor shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (f) of this clause shall be made.
for any costs incurred more than 20 days before the Contractor gives written notice as required.
In the case of specific declarations for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting
to comply with the specific declarations.
(e) The Contractor must assert its right to an adjustment under this clause within 30 days after
receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a
written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a
written request describing the general nature and amount of the proposal, unless this period is
extended by the Government. The statement of proposal for adjustment may be included in
the notice under paragraph (b) of this clause.
(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final
payment under this contract.
32. EXCUSABLE DELAYS (OCT 1999)
(a) Except for defaults of subcontractors at any tier, the contractor shall not be in default because of
any failure to perform this contract under its terms if the failure arises from causes beyond
the control and without the fault or negligence of the contractor. Examples of these causes are
(1) acts of God, such as floods, earthquakes, and tornados; (2) acts of the public enemy; in either
such contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7)
strikes, (8) work stoppages, and (9) unusual severe weather. In each instance, the failure to
perform is beyond the control of the contractor and without the fault or negligence of the contractor.
"Default" includes failure to make progress in the work so as to endanger performance.
(b) If the failure to perform is caused by the failure of the contractor at any tier to plan or make
progress, and if the cause of the failure was beyond the control of both the contractor and
subcontractor, and without the fault or negligence of either, the contractor shall not be deemed to
be in default, unless—
(1) The subcontracted supplies or services were obtained from other sources;
(2) The Laboratory ordered the contractor in writing to purchase these supplies or services
from the other source;
(3) The contractor failed to comply reasonably with the order of the Laboratory;
(4) Upon request of the contractor, the Laboratory shall ascertain the facts and the extent of the failure;
If the Laboratory determines that any failure to perform results from one or more of the causes above, and the delivery schedule shall be revised, subject to the rights of the Laboratory under the
termination clause of this contract.
33. INSPECTION (OCT 1999)
(a) Definitions.
"Contractor's managerial personnel," as used in this clause, means any of the contractor's
directors, officers, managers, superintendents, or equivalent representatives who have
supervision or direction of—
(1) All or substantially all of the contractor's business;
(2) All or substantially all of the contractor's operation at any one plant or separate location
at which the contract is being performed; or
(3) A separate and complete major industrial operation connected with the performance
of the contract.
"Materials," as used in this clause, includes data when the contract does not include the
Warranty of Data clause.
(b) The contractor shall provide and maintain an inspection system acceptable to the Laboratory
covering the material, manufacturing methods, work, and services under this contract. Complete
records of all inspection work performed by the contractor shall be maintained and made
available to the Laboratory during contract performance and for as long afterwards as the
contract requires.
(c) The contractor shall have and shall provide, and has the right to inspect and test all materials
and services performed under this contract, to the extent practicable at all places and times, including the period of
performance thereof and in any event before acceptance. The Laboratory may also inspect the plant
or plants of the contractor or any subcontractor engaged in contract performance. The Laboratory
shall perform inspections and tests in a manner that will not unduly delay the work.
If the contractor performs inspection, the principal elements of the subcontract price
negotiations; (A) the extent to which it was recognized in the negotiation that the
subcontractor's Disclosure Statement or Certificate relating to cost information is
required for any subcontract that—
(i) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or
(ii) Is a fixed-price contract—
(A) For a contract awarded by the Department of Defense, the Coast Guard, or the
National Aeronautics and Space Administration, the greater of the simplified
acquisition threshold of 5 percent of the total estimated cost of the contract or
(ii) For a contract awarded by a civilian agency other than the Coast Guard and the
National Aeronautics and Space Administration, the simplified acquisition
threshold of 5 percent of the total estimated cost of the contract.
(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain
the Laboratory Procurement Official's written consent before placing the following subcontracts:

36. ASSIGNMENT (OCT 1999)
Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by
the contractor except as expressly authorized in writing by the Laboratory. The Laboratory may
assign the whole or any part of this contract to the Government or its designee. The Laboratory may
assign this contract to a successor operator of the Laboratory.
37. SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2014)
(a) Definitions. As used in this clause—
"Commercial item" has the meaning contained in Federal Acquisition Regulation 2.101,
Definitions.
"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or
affiliates of the Contractor or subcontractor at any tier.
(b) To the maximum extent practicable, the Contractor shall incorporate, and require its
subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as
components or items to be supplied under this contract.
(c) The Contractor shall insert the following clauses in subcontracts for commercial items:
1. 52.203-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (41
U.S.C. 3509), if the subcontract exceeds $5,000,000 and has a performance
period of more than 120 days. In altering this clause to identify the appropriate
parties, all disclosures of violation of the civil False Claims Act or of Federal
"Consent to subcontract" means the 'written consent for the Contractor to enter into a
particular subcontract.'
criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5), if the Government-furnished property is in the possession of the Contractor the Government is responsible for maintaining the property in its possession by the Contractor, and to which the Government has title.

(iii) 52.219-8, Utilization of Small Business Concerns (May 2014) (15 U.S.C. 637(d)(2) and (3)), if the subcontractor offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $600,000 ($15.5 million for construction of any public works contract) the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iv) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 11246).


(vii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13146), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

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

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

38. GOVERNMENT PROPERTY (AUG 2010)

(a) Definitions. As used in this clause—

"Acquisition cost" means the cost to acquire a tangible asset including the purchase price, taxes, and costs necessary to bring the asset to a condition necessary for normal or expected use.

"Cannibalize" means to remove parts from Government property for use or for installation on special test equipment or real property.

"Material" means property that may be consumed or expended during the performance of a contract.

"Property Administrator" means an authorized representative of the Laboratory Procurement Office who has the authority to manage, control, preserve, and maintain Government property on behalf of the Laboratory.

"Property records" means the records created and maintained by the Contractor in support of its contract requirements and obligations related to Government-furnished property in the possession of a Contractor.

"Property stewardship" means the records created and maintained by the contractor in support of its stewardship responsibilities for the management of Government property.

"Provide" means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

"Real property" means—(a) Federal real property; and (b) non-Federal real property owned or leased by the Government (as defined in 25 U.S.C. 2702). The contractor shall disclose any significant changes to their property management system and/or industry-leading practices and standards for Government property management that become necessary during the period of performance. The Contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.

"Sulant" means the acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expenditure, sale (as surplus property), or other disposition, or via a completed investigation, evaluation, and final determination for lost, stolen, damaged, or destroyed property. This requirement applies to all property, whether acquired by the Government under legal, legal, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(i) of this clause).

"Sensitive property" means property potentially dangerous to the public safety or security if released or otherwise disposed of. Such property shall be controlled through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expenditure, sale (as surplus property), or other disposition, or via a completed investigation, evaluation, and final determination for lost, stolen, damaged, or destroyed property.

"Subcontract" means a contract for which title is vested in the Government and which exceeds the amounts needed to complete full intended use of the property.

"Title vests in the Government for all property acquired or fabricated by the Contractor as contractor-acquired property and subsequently transferred to another contract with this Contractor.

"Turnkey delivery" means the transfer to another contract with this Contractor.

"Utility property" means a contract for which title is vested in the Government and which exceeds the amounts needed to complete full intended use of the property.

"Useful life of a property" means the period during which the property shall be available to the Contractor for performing a contract, and to which the Government has title.

"Utilization of Small Business Concerns" means—(a) the Contractor for performing a contract, and to which the Government has title.

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"Utilization of Small Business Concerns" means—(a) the Contractor for performing a contract, and to which the Government has title.
(iii) All Government-furnished property and all property acquired by the Contractor, and all property owned by the Contractor, shall be subject to the procedures established by the Contracting Officer to enable the following outcomes:

(A) Acquisition of Property. The Contractor shall document all property that was acquired in connection with the contract in a manner consistent with the type of property. This documentation may include, but is not limited to, records of action, reception, storage, movement, and so forth as may be required by this contract.

(B) Receipt of Government Property. The Contractor shall receive Government property and shall maintain a record of the receipt and issuance of all property. The Contractor shall ensure that receipt of government property is recorded in a manner appropriate to the type of property. The record shall include, as a minimum, the following information:

1. The name, type, and number of the property.
2. The date of receipt.
3. The location of the property.
4. The condition of the property.
5. The name and signature of the person receiving the property.

(C) Use of a Receipt and Issue System for Government Material. The Contractor shall utilize an issue and receipt system, when feasible, to ensure proper accountability of all property issued.

(iv) Maintenance. The Contractor shall maintain Government property in accordance with the terms and conditions of this contract.

(v) Disposal of Government Property. The Contractor shall dispose of Government property in accordance with the terms and conditions of this contract.

(vi) Computer and data systems. The Contractor shall maintain and operate computer systems in accordance with the terms and conditions of this contract.

(f) Contractor plans and systems.

(i) Contractors shall develop and implement property management plans, systems, and procedures that are consistent with the terms and conditions of this contract, and to the level of detail required to enable the following outcomes:

(A) Acquisition of Property. The Contractor shall document all property that was acquired in connection with the contract in a manner consistent with the type of property. This documentation may include, but is not limited to, records of action, reception, storage, movement, and so forth as may be required by this contract.

(B) Receipt of Government Property. The Contractor shall receive Government property and shall maintain a record of the receipt and issuance of all property. The Contractor shall ensure that receipt of government property is recorded in a manner appropriate to the type of property. The record shall include, as a minimum, the following information:

1. The name, type, and number of the property.
2. The date of receipt.
3. The location of the property.
4. The condition of the property.
5. The name and signature of the person receiving the property.

(C) Use of a Receipt and Issue System for Government Material. The Contractor shall utilize an issue and receipt system, when feasible, to ensure proper accountability of all property issued.

(D) Maintenance. The Contractor shall maintain Government property in accordance with the terms and conditions of this contract.

(E) Disposal of Government Property. The Contractor shall dispose of Government property in accordance with the terms and conditions of this contract.

(F) Computer and data systems. The Contractor shall maintain and operate computer systems in accordance with the terms and conditions of this contract.

(g) Systems analysis.

(1) The Contractor shall perform an analysis of the systems currently in use at the Contracting Office to determine their effectiveness and suitability.

(2) The Contractor shall develop a plan for the implementation of new systems, including the training of personnel and the transition to the new systems.

(3) The Contractor shall maintain and update the systems analysis plan as necessary.

(h) Contract responsibility for Government Property.

(1) Unless otherwise provided for in the contract, the Contractor shall be responsible for the care and safety of all Government property.

(2) The Contractor shall also be responsible for the care and safety of all property acquired by the Contractor, and all property owned by the Contractor.

(3) The Contractor shall ensure that all property is properly identified and inventoried.

(4) The Contractor shall ensure that all property is properly stored and maintained.

(5) The Contractor shall ensure that all property is properly accounted for.

(6) The Contractor shall ensure that all property is properly disposed of.

(7) The Contractor shall ensure that all property is properly insured.

(8) The Contractor shall ensure that all property is properly maintained.

(9) The Contractor shall ensure that all property is properly reported.

(10) The Contractor shall ensure that all property is properly tracked.

(i) Use of a Receipt and Issue System for Government Material. The Contractor shall utilize an issue and receipt system, when feasible, to ensure proper accountability of all property issued.

(j) Computer and data systems. The Contractor shall maintain and operate computer systems in accordance with the terms and conditions of this contract.

(k) Systems analysis.

(1) The Contractor shall perform an analysis of the systems currently in use at the Contracting Office to determine their effectiveness and suitability.

(2) The Contractor shall develop a plan for the implementation of new systems, including the training of personnel and the transition to the new systems.

(3) The Contractor shall maintain and update the systems analysis plan as necessary.


(1) Unless otherwise provided for in the contract, the Contractor shall be responsible for the care and safety of all Government property.

(2) The Contractor shall also be responsible for the care and safety of all property acquired by the Contractor, and all property owned by the Contractor.

(3) The Contractor shall ensure that all property is properly identified and inventoried.

(4) The Contractor shall ensure that all property is properly stored and maintained.

(5) The Contractor shall ensure that all property is properly accounted for.

(6) The Contractor shall ensure that all property is properly disposed of.

(7) The Contractor shall ensure that all property is properly insured.

(8) The Contractor shall ensure that all property is properly maintained.

(9) The Contractor shall ensure that all property is properly reported.

(10) The Contractor shall ensure that all property is properly tracked.
under paragraph (f)(2)(i)(A) of this clause, property that was not purchased under paragraph (f)(2)(ii)(B) of this clause, and property that could not be returned to a supplier under paragraph (f)(2)(ii)(C) of this clause.

(3) Inventory disposal schedules.

(i) The Contractor shall use Standard Form 128, Inventory Disposal Schedule, to identify—

(A) Government-furnished property that is no longer required for performance of this contract, provided the Contractor does not require the Government to furnish that property for performance of this contract;

(B) Contractor-acquired property, to which the Government has obtained title under paragraph (f)(2)(ii)(B) of this clause, which is no longer required for performance of that contract; and

(ii) The Contractor may annotate inventory disposal schedules to identify the property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has and approved the Contractor's request for an electronic substitution of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for—

(A) Special test equipment with commercial components;

(B) Special test equipment without commercial components;

(C) Information technology (e.g., computers, computer components, peripheral equipment, and related materials);

(D) Precious metals in raw or bulk form;

(E) Nonradioactive hazardous materials or hazardous wastes; or

(F) Nuclear materials or nuclear waste.

(iv) The Contractor shall provide the information required by FAR 52.225-1(1)(i)(iii) along with the following:

(A) Any additional information that may facilitate understanding of the property's intended use;

(B) For in-process, the estimated percentage of completion;

(C) For precious metals, the type of metal and estimated weight;

(D) For hazardous material of property contaminated with hazardous material, the type of hazardous material;

(E) For metals in mill product form, the form, shape, treatment, hardness, temper, specification (commercial or Government) and dimensions (height, width, and length);

(F) Property with the same description, condition code, and reporting location may be grouped in a single line item.

(v) Scrap should be reported for "intended by metal content, estimated scrap percentage, and estimated value.

(4) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer in such a form as to:—

(i) 30 days following the Contractor's determination that a Government property item is no longer required for performance of this contract;

(ii) 30 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) 30 days, as may be approved by the Laboratory Procurement Officer following contract termination in whole or in part.

(5) Corrections. The Plant Clearance Officer may—

(i) Reject a schedule for cause (e.g., contain errors, determined to be inaccurate); and

(ii) Require the Contractor to correct an inventory disposal schedule.

(6) Postsubmission adjustments. The Contractor shall notify the Plant Clearance Officer of all inventory disposal schedules at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule.

(7) Storage.

(i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposal instructions. If approval is granted, any costs incurred by the Contractor shall not exceed the appraised value or price or fee of any Government contract. The storage area shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of liability for such property under this contract.

(8) Disposition instructions.

(i) The Government does not furnish disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures.

(ii) The Contractor shall prepare for shipment, deliver, 10, or dispose of Government inventory as directed by the Plant Clearance Officer. Unless otherwise directed by the Plant Clearance Officer or by the Plant Clearance Officer, the Contractor shall remove and destroy any markings identifying the property as Government-owned property prior to its disposal.

(iii) The Laboratory Procurement Officer may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i)(i) of this clause.

(9) Disposal proceeds. As directed by the Laboratory Procurement Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract, or to the Treasury of the United States as miscellaneous receipts.

(10) Subcontractor inventory disposal schedules. The Contractor shall require its subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (f)(2)(ii)(D) of this clause.

(k) Abandonment of Government property.

(i) The Government shall abandon sensitive Government property or termination inventory without the Contractor's written consent.

(ii) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease.

(iii) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government-furnished property is withdrawn or is unavailable for the reasonable wear and tear of such property, the Government may effect an equitable adjustment under paragraph (f)(i) of this clause may properly include restoration costs.

(l) Communications. All communications under this clause shall be in writing.

(m) Contracts outside the United States. If this contract is to be performed outside of the United States and its outlying areas, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of clause)
maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor also shall allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(e) Subcontracts. The Contractor shall insert the provisions set forth in paragraphs (a) through (d) of this clause in all subcontracts that may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

43. INTEGRITY OF UNIT PRICES (OCT 2010)

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

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

(b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those suppliers that it will not manufacture or to which it will not contribute significant value.

(c) The Contractor shall insert the substance of this clause, paragraph (b), in all subcontracts for the acquisition of construction acquisition threshold’s FAR Part 6, utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

44. WARRANTY OF SERVICES (MAY 2001)

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

(b) The Laboratory Procurement Official shall make an equitable adjustment in the contract price.

(c) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the Representations and Certifications for the solicitation entitled “Buy American Certificate.”

45. WARRANTIONS OF SERVICES (JUN 2014)

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

46. BUY AMERICAN ACT – SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause:

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

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

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

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

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40120(4), such as agricultural commodities and petroleum products.

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

"Cost of components" means—

(i) For components manufactured by the Contractor, the cost associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allowable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

(ii) Domestic end product means—

(1) An unmanufactured product mined or produced in the United States;

(2) An end product manufactured in the United States, if—

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same kind or class as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic.

(b) 43 U.S.C. chapter 83, Buy American, provides a preference for domestic products and services for supplies acquired for use in the United States. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for an end product that is a COTS item (See 12.505(a)(1))

(c) Offers or bids obtained from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the Representations and Certifications for the solicitation entitled “Buy American Certificate.”

47. STATE AND LOCAL TAXES (DEC 2000)

(a) The contractor agrees to notify the Laboratory of any State or local tax, fee, or charge levied or purported to be levied on or collected from the contractor with respect to the contract work, any transaction thereunder, or property in the custody or control of the contractor and constituting an allowable item of cost if due and payable, but which the contractor has reason to believe, or the laboratory has advised the contractor in writing, is invalid, or is not in compliance with this clause. The contractor further agrees to refrain from paying any such tax, fee, or charge unless authorized in writing by the Laboratory. Any State or local tax, fee, or charge paid with the approval of the Laboratory, or on the basis of a contract basis, may be included in the cost of the contract, or paid by the contractor to the contractor to whom the tax, fee, or charge is applicable and valid, and which would otherwise be an allowable item of cost, shall be disallowed as an item of cost from this contract. In the event of a subsequent ruling or determination that such tax, fee, or charge was in fact inappropriate or invalid.

(b) The contractor agrees to take such action as may be required or approved by the Laboratory to cause any State or local tax, fee, or charge which should be paid or charged to the contractor to be paid under protest, and to take such action as may be required or approved by the Laboratory to seek recovery of any payments made, including assignment to the Laboratory or its designee of all rights to reimbursement or recovery for the Laboratory or the Government. Whenever possible, the contractor shall agree to the Laboratory's making a litigation to enjoin the collection of or to recover payment of any such tax, fee, or charge referred to above as it considers necessary. A tax, fee, or charge which has been paid or withheld by the contractor for a tax, fee, or charge which has been paid or withheld by the contractor under protest, and to take such action as may be required or approved by the Laboratory to seek recovery of any payments made, including assignment to the Laboratory or its designee of all rights to reimbursement or recovery for the Laboratory or the Government.

48. TERMINATION (COST-REIMBURSEMENT) (MAY 2004)

(a) The Laboratory may terminate performance of work under this contract in whole or, from time to time, in part, if—

(1) The Laboratory Procurement Official determines that a termination is in the interest of the Government.

(2) The Contractor defaults in performing the contract and fails to cure the default within 10 days after receiving notice specifying the nature of the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b) The Laboratory Procurement Official shall terminate by delivering to the Contractor a Notice of Terminating Subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the remaining portion of the contract.

(c) The Contractor shall offer any components, or any other goods or services in the possession or under the control of the Contractor, to the Government in accordance with the terms of the contract.

(d) The Contractor shall offer any components, or any other goods or services in the possession or under the control of the Contractor, to the Government in accordance with the terms of the contract.

(e) Terminate all subcontracts to the extent they relate to the work terminated.

(f) The Contractor shall offer the termination in accordance with the terms of the contract.

(g) The Contractor shall offer the termination in accordance with the terms of the contract.
(8) Take any action that may be necessary, or that the Laboratory Procurement Official may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Laboratory Procurement Official, any property that has not been disposed of or returned within paragraph (c)(2) of this clause, provided, however, that the Contractor: (i) is not required to extend credit to any purchaser and (ii) acquires the property at a price equal to or higher than the contract price, as determined by the Laboratory Procurement Official. The proceeds of any transfers or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the property, or in any other manner directed by the Laboratory Procurement Official.

(10) The Contractor shall submit final termination settlement schedules no later than 120 days from the effective date of termination, unless extended in writing by the Laboratory Procurement Official upon written request of the Contractor within this 120-day period.

(11) The contractor shall identify the final invoice for the work by affixing in a prominent place the words FINAL INVOICE.

65. PAYMENTS (FEB 2004)

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may 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, unless the subcontractor is included sans encroachment of this contract without the prior written consent of the Laboratory Procurement Official.

(b) Any agreements for a prospective purchaser for the sale of the commercial item(s).

(c) The Contractor shall not acquire or sell, or agree to sell, any property or service to a person subject to the jurisdiction of the United States.

(d) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited.

(e) Payments are made under this contract in the currency of the United States, or in dollars, as specified by the Laboratory Procurement Official.

(f) The Contractor shall keep and maintain records and books of account which show accurately, in sufficient detail to permit the identification of the various compensable items under this contract and to cost the contractor has been reimbursed by the Laboratory under this contract for which cost the contractor is entitled to be reimbursed as a direct item of cost under this contract and for which the Contractor has the cost of property in the possession of the Contractor and in which the Government has or may acquire an interest, is 25%.

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

(a) The contractor shall be paid as follows with respect to the allowable costs set forth in the "Consideration and Allowable Costs" clause:

(1) Hourly Rate - The amounts computed by multiplying the appropriate hourly rate, as determined by the rate(s) established in the Schedule of the contract, by any hourly rate payments made to the Contractor;

(2) An amount for direct labor hours (as defined in the Schedule of the contract) incurred before the effective date of termination, if they are reasonably incurred after the effective date, with approval from the Laboratory Procurement Official; however, the contractor shall discontinue these expenses as rapidly as practicable;

(3) An amount for material and labor expenses considered for the time provided in paragraph (f) of this clause, the cost of settling and terminating a subcontract proposal or terminated subcontract that are reasonably incurred after the effective date of termination, if not previously paid to the Laboratory Procurement Official.

36. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

This clause applies to all subcontractors that exceed $150,000.
Definitions. As used in this clause—

“Agency” means “executive agency” as defined in Federal Acquisition Regulation (FAR) 2.101.

“Covered Federal action” means any of the following actions:

(i) Obtaining payment under this contract.
(ii) Obtaining payment under any other Federal contract or grant.
(iii) Providing, offering, or making available a subcontract under this contract.
(iv) Providing, offering, or making available a subcontract under any other Federal contract or grant.
(v) Providing, offering, or making available a subcontract under this contract or any other Federal contract or grant.
(vi) Making capability presentations prior to formal solicitation of any covered Federal action, but that concern—
(a) Any notice, communication, or representation in any form other than that specified in subparagraph (c) of this clause that the Contractor provides in connection with any solicitation for any covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
(b) Any payment for reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
(c) Any payment for reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
(d) Any payment for reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.
(e) Any payment for reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(iii) As used in paragraph (c)(2) of this clause, “professional and technical services” are limited to advice and analysis directly applying any professional or technical discipline, examples, see FAR 3.903(a).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the equal access award document.

(v) Only those communications and services expressly authorized by paragraphs (c)(i) and (ii) of this clause are permitted.

(vi) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL, submission of the notice to the Government or the identity of the lobbyists, or the identity of the persons performing the services, the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

Penalties. Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for in 31 U.S.C. 1352. An imposition of a civil penalty may include the requirement of seeking any other remedy that may be applicable.

Subcontracts. The Contractor shall provide a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL, submission of the notice to the Government or the identity of the lobbyists, or the identity of the persons performing the services, the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.

53. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether involuntary or voluntary, the contractor agrees to furnish, by certified mail, written notice of the bankruptcy to the Contracting Officer on or before the day the petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for all Laboratory contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

54. LIMITATION OF COST (APR 1984)

(a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the Laboratory more than (1) the estimated cost specified in the Schedule, (2) if this is a cost-sharing contract, the Laboratory’s share of the estimated cost specified in the Schedule. The contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Laboratory’s and the contractor’s share of the cost.

(b) The contractor shall not exceed the Authorized Laboratory Procurement Official in writing whenever it has reason to believe that—

(1) The costs the contractor expects to incur under this contract in the next 60 days, when added to the costs incurred in excess of the estimated cost specified in the Schedule or, (ii) if this is a cost-sharing contract, the estimated cost to the Laboratory specified in the Schedule; or

(2) The total cost of performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated.

(c) As part of the notice, the contractor shall provide the Authorized Laboratory Procurement Official with a revised estimate of the total cost of performing this contract.

(d) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause—

(1) The Laboratory is not obligated to reimburse the contractor for costs incurred in excess of (i) the estimated cost specified in the Schedule or, (ii) if this is a cost-sharing contract, the estimated cost to the Laboratory specified in the Schedule; and

(2) The contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract). If the contractor incurs costs in excess of the estimated cost specified in the Schedule, until the Authorized Laboratory Procurement Official (i) notifies the contractor in writing that the estimated cost has been increased and (ii) provides the contractor with the revised estimated cost of performing this contract. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in subparagraph (b).

(e) No notice, communication, or representation in any form other than that specified in subparagraph (d)(ii) above, or from any person other than the Authorized Laboratory Procurement Official, shall constitute this contract’s estimated cost to the Laboratory. In the absence of the specified notice, the Laboratory is not obligated to reimburse the contractor for any costs in excess of the estimated cost specified in the Schedule. The contractor shall be responsible for all costs in excess of the estimated cost to the Laboratory specified in the Schedule, whether those excess costs were incurred during the course of the contract or as a result of termination.

(1) If the increased cost specified in the Schedule is increased, any costs the contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the extent they are attributable to the contractor's performance thereafter. If the increase is not incurred or if the change occurs, the Government shall subtract from the increase the amount of the increase incurred after the change and the contractor shall be reimbursed for costs incident to the change that are incurred after the change.

(f) If the change increases the cost specified in the Schedule, any costs the contractor incurs after the change that are attributable to the increased cost shall be allowable.

(g) If the increase is not incurred or if the change occurs, the increase shall be subtracted from the increased cost and the contractor shall be reimbursed for costs incidental to the change that are attributable to the increased cost.

(h) The contractor shall be deemed to have an authorization to exceed the estimated cost to the Laboratory specified in the Schedule, unless they contain a statement increasing the estimated cost.

(i) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate an equitable distribution of all property produced or purchased under this contract, based upon the share of costs incurred by each.

55. LIMITATION OF FUNDS (APR 1984)

(a) The parties estimate that performance of this contract will not cost the Laboratory more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Laboratory’s share of the estimated cost specified in the Schedule. The contractor agrees to
use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Laboratory's and the contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Laboratory and allotted to this contract, the items covered, the Laboratory's share of the cost if this is a cost-sharing contract, and the period of performance and it is estimated the allotted amount will cover. The parties contemplate that the Laboratory will allot additional funds incrementally to the contract as the work is performed. The full estimated cost is specified in the Schedule, except in the case of any cost-sharing contract, where the full estimated cost will be increased to the extent that (1) the amount allotted by the Laboratory to this contract, the amount then allotted to the contract by the Laboratory plus the contractor's corresponding share of the cost, and the amount then allotted to the contract by the Laboratory or (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Laboratory or by the Authorized Laboratory Procurement Official in writing if there is reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (a) the total amount so far allotted to the contract by the Laboratory or (b) the cost-sharing contract, the amount then allotted to the contract by the Laboratory plus the contractor's corresponding share of the cost. The notification shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

(e) Sixty days before the end of the period specified in the Schedule, the contractor shall notify the Authorized Laboratory Procurement Official in writing that the contractor considers that the funds allotted to the contract plus the contractor's corresponding share of the funds, if any, required to continue timely performance under the contract or for any further work under the contract are insufficient. If the contractor provides such notice, the contractor or, if after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the contractor's written request the Authorized Laboratory Procurement Official will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Authorized Laboratory Procurement Official may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause--

(1) The contractor is not obligated to reimburse the contractor for costs incurred in excess of the total amount allotted by the Laboratory to this contract, and

(2) The contractor is not obligated to continue performance under this contract (including any funds under the Termination clause of this contract or otherwise incur costs in excess of the amount allotted to the contract by the Laboratory or by the Authorized Laboratory Procurement Official in writing if there is reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (a) the total amount so far allotted to the contract by the Laboratory or (b) the cost-sharing contract, the amount then allotted to the contract by the Laboratory plus the contractor's corresponding share of the cost, and the amount then allotted to the contract by the Laboratory or by the Authorized Laboratory Procurement Official in writing if there is reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (a) the total amount so far allotted to the contract by the Laboratory or (b) the cost-sharing contract, the amount then allotted to the contract by the Laboratory plus the contractor's corresponding share of the cost.

(g) The estimated cost shall be increased to the extent that (1) the amount allotted by the Laboratory to the contract plus the contractor's corresponding share of the funds, if any, required to continue timely performance under the contract or for any further work under the contract is insufficient, or (2) the contractor estipulates that the estimated cost as of the date of this contract, which shall then constitute the total amount allotted by the Laboratory to this contract.

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Authorized Laboratory Procurement Official, shall affect the amount allotted by the Laboratory to this contract. In the absence of such a specified notice, the Laboratory is not obligated to reimburse the contractor for costs incurred in excess of the total amount allotted by the Laboratory to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the Laboratory or the Authorized Laboratory Procurement Official to the contract is increased, any costs the contractor incurs before the increase that are in excess of--

(1) The amount previously allotted to the Laboratory under this contract;

(2) If this is a cost-sharing contract, the amount previously allotted to the Laboratory to the contract plus the contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Authorized Laboratory Procurement Official issues a termination or other notice and directs that the increase is solely to cover termination or other unperformed obligations.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Laboratory specified in the Schedule, unless they contain a statement increasing the amount allotted by the Contractor and the contractor's share of the cost.

(k) Nothing in this clause shall affect the right of the Laboratory to terminate this contract. If this contract is terminated, the Laboratory and the contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) If the Laboratory does not allot sufficient funds to allow completion of the work, the contractor is entitled to a percentage of the fee specified in the Schedule equaling the percentage of completion of the work contemplated in the Schedule.

(m) This clause, Limitation of Funds, shall be applicable and the clause entitled "Limitation of Cost" (paragraph (o)) of the Department of Energy Acquisition Regulation (DEAR), 48 CFR 8, in effect on the date of this contract, shall be applicable to this contract.

57. CONSIDERATION AND ALLOWABLE COSTS (AUG 2001)

In full and complete monetary consideration for the performance of work under this contract, the Laboratory shall pay the contractor for the following items of allowable costs:

(a) Labor. For time worked in the performance of this contract by contractor personnel (including independent contractors) at the rates and in the amounts specified in the schedule of rates for labor under this contract. Amounts paid for labor shall include the cost of any and all travel expenses incurred in connection with furnishing the services under this contract. Costs of travel must be allowable in accordance with the cost principles and procedures of Subpart 31 of the Department of Energy Acquisition Regulation (DEAR), 48 CFR 8, in effect on the date of this contract.

(b) Materials, Supplies, Computer Time. The actual direct cost to the contractor for materials, supplies, and computer time necessary for the performance of work under this contract shall be allowable. However, that amount, or any portion of it, which exceeds the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials, shall be treated as an unallowable cost if the contractor does not endeavor to use its best efforts to purchase them. In full and complete monetary consideration for the performance of work under this contract, the contractor shall agree that it does not and will not maintain or provide for its employees any segregated facilities, as used in this clause, means any waiting rooms, work areas, rest rooms, storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, or any other facilities, area, or space on any property, owned, operated, or used by the contractor, which are in fact segregated on the basis of race, color, religion, sex, or national origin. The contractor agrees that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities shall be on a U.S.-flag air carrier to the extent that service by these carriers is available, unless some other travel service, including any proposed sensitive foreign nations travel.

Transportation of personnel or property outside the United States, the District of Columbia, the Commonwealth of Puerto Rico and possessions of the United States should be on a U.S.-flag air carrier to the extent that such travel is not compensable (see Paragraph (a) Labor above) and travel expenses are reimbursable in accordance with the following rules:

1. Travel required by contractor personnel for performance of services at a location away from the contractor's base must be approved by the appropriate Laboratory Division Director or his designee. In no case should such travel be reimbursed unless it has been approved by the Laboratory.

2. In addition, any foreign travel charged directly shall be subject to the prior approval of the Laboratory and shall be considered allowable travel costs if they are contained in an approved budget. Foreign travel is defined as any travel outside of the United States and its territories; including all trips to Malaysia or Northern Marianas. Requests for approval, if required, shall be submitted in accordance with DOE procedures prior to the planned departure date, be on a Request for Approval of Foreign Travel Form (DOE F 35), and when needed, include travel of employees representing non-U.S. companies. The "U.S. Nationals, Foreign Nationals, or "Carriers" shall be included on vouchers indicating that a U.S. -flag air carrier was not available or the specific reasons should be given as to why it was necessary to use foreign flag air carrier service.

3. As full reimbursement for transportation, lodging, meals, and incidental expenses incurred by contractor personnel in connection with the performance of services away from the contractor's base and travel authorized in accordance with paragraph 1, above, the contractor shall provide only the allowable travel costs. Allowable travel costs will be determined in accordance with Federal Acquisition Regulation (FAR) 31.205-46 Travel Costs in effect as of the date of this agreement, however, the foregoing notwithstanding, reasonable expenditure of travel expenses which may result from a contractor's failure to secure prompt delivery of satisfactory materials, shall be treated as an unallowable cost if the contractor does not endeavor to use its best efforts to purchase them. Contractors will only be reimbursed for a travel expenditure over $25.00 that is supported by a detailed travel voucher.

4. Subcontracts and Consultants. The actual direct cost to the contractor of such subcontract or consultant services as are expressly approved in writing by the authorized Laboratory Procurement Official.

5. Other. Any costs not reimbursable for which the contractor seeks reimbursement shall be charged to the contractor's cost of doing business in connection with the performance of work under this contract and are not covered by the foregoing paragraphs of this clause; provided, however, that such direct costs must be allowable in accordance with the cost principles and procedures of Subpart 31 of the Department of Energy Acquisition Regulation (DEAR), 48 CFR 8, in effect on the date of this contract.

58. 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, parking lots, drinking fountains, recreation or entertainment areas, storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, or any other facilities, area, or space on any property, owned, operated, or used by the contractor, which are in fact segregated on the basis of race, color, religion, sex, or national origin. The contractor agrees that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are in effect.

(b) The contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are in effect.

(c) Subcontracts and higher tier subcontractors shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Attorney General.

(d) The contractor shall cooperate fully with any Federal agency investigating a possible violation of this clause.

(e) The contractor shall cooperate fully with any Federal agency investigating a possible violation of this clause.

(f) The contractor shall cooperate fully with any Federal agency investigating a possible violation of this clause.

(g) The contractor shall cooperate fully with any Federal agency investigating a possible violation of this clause.
are maintained. The contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

c. The contractor will include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

59. ACCESS TO AND OWNERSHIP OF RECORDS (JUL 2009)

(a) Laboratory-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the Government Program that are the property of the Laboratory and shall be delivered to the Laboratory or otherwise disposed of by the contractor either as the Laboratory Procurement Representative may from time to time direct during the course of the work on the Government Program. The contractor shall deliver such records at once upon completion or termination of the contract.

(b) Contractor-owned records. The following records considered the property of the contractor and are not within the scope of paragraph (a) of this clause. [The Laboratory Procurement Representative shall identify which of the following categories of records will be included in the clause.]

(1) Employment-related records (such as worker's compensation files; employee records relating to employment; records on labor testing records, labor records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employment-related inspections; and records relating to employee assistance programs, and personal and medical/health-related records, including medical files, and non-employee medical/health-related records; except for those records described by the contract as being maintained in Privacy Act system records).

(TFR 07/09, Jun. 28, 2005)

(2) Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into under this contract, or a subcontract under which such subcontracts, costs incurred are a factor in determining the amount payable to the subcontractor.

(f) Records retention standards. Special records retention standards, described at DOE directly related to activities at DOE-owned or -leased sites.

 Governed General, with respect to the United States, or an authorized representative, shall have access to and the right to examine any of the contractor's or subcontractor's directly pertinent to a subcontract hereunder and to interview any employee regarding such transactions.

(h) The contractor shall not insert or have inserted the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

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

(a) Accounts. The Contractor shall maintain a separate and distinct set of accounts, records, and documents, and other evidence showing and supporting: all allowable costs incurred; collections accruing to the Contractor in connection with the work under this contract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract; and the receipt, use, and disposition of all Government property coming into the possession of the Contractor hereunder. The costs incurred by the Contractor shall be satisfactory to DOE and in accordance with generally accepted accounting principles consistent with those of the Government.

(b) Inspection and audit of accounts and records. All books of account and records relating to this contract shall be subject to inspection and audit by DOE or its designees in accordance with the provisions of this clause. Access and inspection of an accounting record shall be at all reasonable times during the period of retention provided for in paragraph (d) of this clause, and the Contractor shall provide the Government property for such inspection and audit.

(c) Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to each subcontractor of any tier, to either conduct an audit of the subcontractor's costs or arrange for such an audit to be performed by the cognizant government audit agency through the Contracting Officer.

(d) Disposition of records. Except as agreed upon by the Government and the Contractor, all final reports, cost reports, books of account and records supporting the Government Program, bases, and other data evidencing costs allowable, collections accruing to the Contractor in connection with the work under this contract, other applicable credits, and fee accruals under this contract, shall be the property of the Government, and shall be delivered to the Government or otherwise disposed of by the Contractor either as the Contractor may from time to time direct during the course of the work on the Government Program. The contractor shall direct upon completion of termination of this contract and final audit of accounts hereunder. Except as otherwise provided in this contract, including provisions of Clause 59.522-3, Access to and Ownership of Records, all other records in the possession of the Contractor relating to this contract shall be preserved by the Contractor for a period of three years after final payment under this contract or otherwise disposed of in such manner as may be agreed upon by the Government and the Contractor.

(e) Reports. The Contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports required under this contract as the Contracting Officer may from time to time require.

(f) Inspections. The DOE shall have the right to inspect the work and activities of the Contractor under this contract at such time and in such manner as it shall deem appropriate.

(g) Subcontracts. The Contractor further agrees to include the inclusion of provisions similar to this clause in all subcontracts (including fixed-price or unit-price subcontracts or purchase orders) of any tier entered into under this contract, or a subcontract hereunder and to interview any employee regarding such transactions.

(h) The contractor will include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors are present:

(1) The value of the subcontract is greater than $2 million (unless specifically waived by the Laboratory Procurement Representative).

(2) The Laboratory Procurement Representative determines that the subcontract is, or will involve, a critical task related to the mission of the Laboratory.

(3) The subcontract includes 48 CFR 970.522-3, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.

61. 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 76, for work performed on behalf of DOE directly related to activities at DOE-owned or -leased sites.

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

62. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO EMPLOYEES OF WHISTLEBLOWER RIGHTS ACT (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 under Section 41 of the Fiscal Year 2013 Department of Energy, Congressionally Authorized, Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908

(b) On or before the date the contractor enters into a subcontract under this contract, the contractor shall insert the substance of this clause, including paragraph (c), in all subcontracts over the simplified acquisition threshold.

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

(a) Applies To Contracts That Exceed $30,000 in Value

(1) Definition. "Commercially available off-the-shelf (COTS) item," as used in this clause—

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

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

(iii) The compelling reason(s) for doing business with the subcontractor notwithstanding its debarment, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(b) Contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 in value, and which is for a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor is debarred, suspended, or proposed for debarment.

(c) If the Contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 in value, and which is for a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(d) The Contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 in value, and which is for a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(e) If the Contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 in value, and which is for a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(f) If the Contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 in value, and which is for a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(g) If the Contractor shall require each proposed subcontractor whose subcontract will exceed $150,000 in value, and which is for a subcontract for a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

64. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

(1) Threats of serious harm or to physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to act will have an adverse financial impact on any person;

(3) The abuse or threatened abuse of law or the legal process.

(b) The employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3 of the Federal Acquisition Regulation.

(e) The contractor shall not insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

(f) The contractor shall not insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

(g) The contractor shall not insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.
(a) The contractor is responsible for maintaining the integrity of research performed pursuant to this contract. In addition to other remedies available to the Government, the contractor's failure to comply with the requirements of this clause and the effectiveness of its remedial actions and sanctions shall be positive considerations and shall be taken into account as mitigating factors in assessing the need for such actions. If the contractor pursues any such action, it will inform the subject of the action and the Government of any appeal procedures.

(b) Remediation and Sanction. If the contractor finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process. The contractor must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in progress or to be performed in accordance with the requirements of this clause. The contractor must also consider whether personnel sanctions are appropriate. Such sanctions must be consistent and effective to the extent possible with the research record and as appropriate to the extent possible with applicable law and regulation.

(c) Confidentiality. To the extent possible, consistent with fair and thorough processing of allegations of research misconduct and applicable law and regulation, knowledge about the identity of the subjects of allegations and informants should be limited to those with a need to know.

(d) Remediation and Sanction. If the contractor finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process. The contractor must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in progress or to be performed in accordance with the requirements of this clause. The contractor must also consider whether personnel sanctions are appropriate. Such sanctions must be consistent and effective to the extent possible with the research record and as appropriate to the extent possible with applicable law and regulation.

(e) Remediation and Sanction. If the contractor finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process. The contractor must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in progress or to be performed in accordance with the requirements of this clause. The contractor must also consider whether personnel sanctions are appropriate. Such sanctions must be consistent and effective to the extent possible with the research record and as appropriate to the extent possible with applicable law and regulation.
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
- Information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export.

To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, be aware of the following guidelines:
- Acquire all required export license prior to your trip.
- Presentations and discussions must be limited to only those topics that are not on the DOE Sensitive Subject Lists and the Argonne Sensitive Technologys 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.

69. CONFLICTS OF DOCUMENTATION (AUG 2001)

All negotiations between the parties have been merged into the contract, and there are no understandings or agreements other than those incorporated into this contract.

This contract represents the full understanding of the parties and is the entire agreement between the parties. Any work undertaken by the contractor without such decision shall be at the contractor's own risk.

70. ENVIRONMENTAL PROTECTION (AUG 2003)

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.

71. LIMITATIONS PERIOD (AUG 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 identified in writing to the Laboratory Procurement Official. Such written notification must be received by the Laboratory Procurement Official within two (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.

72. VEHICLE LIABILITY INSURANCE COVERAGE (AUG 2001)

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

73. ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2013)

(a) Definitions. As used in this clause—

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

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

(b) This clause implements Executive Order 13533, 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.

74. INTEGRATION CLAUSE (AUG 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 the contract, and there are no understandings or agreements other than those incorporated into this contract.

75. 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 in selecting technical standards for use to support assigned DOE missions and functions, must:
- (i) Evaluate and select 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.)
- (ii) 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.
- (iii) Designate and provide support for a coordinator for technical standards activities, including identifying and scheduling of the appropriate Subject Matter Experts to review draft DOE Technical Standards.
- (iv) Report participation in VCS activities conducted in support of DOE missions and functions through the Laboratory Technical Standards Manager in The Office of Contract Administration (COA). [use Form DOE F 1300.2 (05/2010)].
# SUSPECT/COUNTERFEIT PART

## HEADMARK LIST

ALL GRADE 5 AND GRADE 8 FASTENERS OF FOREIGN ORIGIN WHICH DO NOT BEAR ANY MANUFACTURERS' HEADMARKS

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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)