APPENDIX A
ARGONNE TERMS AND CONDITIONS
(For Labor-Hour and Time and Materials Contracts)

1. Displaced Employee Hiring Preference (Jun 1997) .................................. 2
2. Covenant Against Contingent Fees (Apr 1984) ......................................... 2
3. Equal Opportunity (Mar 2007) ................................................................. 2
4. Employment Reports Veterans (Sept 2010) ............................................... 2
5. Equal Opportunity For Veterans (Sept 2010) .............................................. 2
8. Employment Eligibility Verification (Jan 2009) .......................................... 3
10. Security (Mar 2011) .................................................................................. 4
11. Classification/Declassification (Sep 1997) ................................................ 5
12. Clean Air And Water (Apr 1984) ............................................................... 5
15. Energy Efficiency In Energy-Consuming Products (Dec 2007) ............... 6
16. Submission Of Transportation Documents For Audit (Feb 2006) .......... 6
17. Preference For U.S. Flag Air Carriers (Jun 2003) ..................................... 6
18. Preference For Privately Owned U.S. – Flag Commercial Vessels (Feb 2006) ................................................................. 6
20. Small Business Subcontracting Plan (Jan 2011) ........................................ 6
21. Utilization Of Small Business Concerns (Jan 2011) ................................. 8
22. Notice To The Laboratory Of Labor Disputes (Oct 1999) ....................... 8
23. Reports (Oct 1999) .................................................................................. 8
24. Rights To Proposal Data (Aug 2001) ......................................................... 8
25. Subcontractor Cost Or Pricing Data (Oct 2010) ...................................... 8
27. Price Reduction For Defective Certified Cost Or Pricing Data (Aug 2011) ............................................................................... 8
28. Price Reduction For Defective Certified Cost Or Pricing Data— Modifications (Aug 2011) ................................................................. 9
30. Changes (June 2007) .............................................................................. 9
31. Excusable Delays (Oct 1999) ................................................................. 9
32. Inspection (Oct 1999) ........................................................................... 10
33. Permits Or Licenses (Oct 1999) .............................................................. 10
34. Subcontracts (Oct 2010) (Applies To Contracts Exceeding The Simplified Acquisition Threshold) ........................................... 10
35. Assignment (Oct 1999) ........................................................................... 10
36. Subcontracts For Commercial Items (Dec 2010) ..................................... 10
39. Personal Identity Verification Of Contractor Personnel (Jan 2011) ........ 13
40. Key Personnel (Dec 2000) .................................................................... 13
42. Walsh-Healey Public Contracts Act (Oct 2010) ...................................... 13
43. Integrity Of Unit Prices (Oct 2010) .......................................................... 13
44. Warranty Of Services (May 2001) ........................................................... 13
45. Warranty Of Supplies (Dec 2011) ............................................................ 14
46. Buy American Act – Supplies (Feb 2009) .............................................. 14
47. State And Local Taxes (Dec 2000) ........................................................... 14
48. Termination (Cost-Reimbursement) (May 2004) .................................... 14
49. Restriction On Certain Foreign Purchases (Jun 2008) ........................... 15
50. Restrictions On Subcontractor Sales To The Government (Sep 2006) – Applicable To Contracts Which Exceed $100,000 ........................................ 15
51. Payments (Feb 2004) ........................................................................... 15
52. Limitation On Payments To Influence Certain Federal Transactions (Oct 2010) ................................................................. 15
53. Bankruptcy (Jul 1995) ........................................................................... 16
54. Limitation Of Cost (Apr 1984) ................................................................. 16
55. Limitation Of Funds (Apr 1984) ............................................................... 16
56. Anti-Kickback Procedures (Oct 2010) ...................................................... 17
57. Consideration And Allowable Costs (Aug 2001) ..................................... 17
58. Prohibition Of Segregated Facilities (Feb 1999) .................................... 17
59. Access To And Ownership Of Records (Jul 2005) .................................. 17
60. Accounts, Records, And Inspection (Dec 2010) .................................... 18
61. Whistleblower Protection For Contractor Employees (Dec 2000) 2018
62. Protecting The Government’s Interest When Subcontracting With Contractors Debarred, Suspended, Or Proposed For Debarment (Dec 2010) ................................................................. 18
63. Combating Trafficking In Persons (Feb 2009) ........................................ 18
64. Research Misconduct (Jul 2005) ............................................................. 19
65. Laboratory Site Access And / Or Participation In Activities By Non-U.S. Nationals (Dec 2004) ............................................................ 19
67. Export Control Information For Foreign Travel (Nov 2002) .................. 19
68. Conflicts Of Documentation (Aug 2001) ................................................ 19
69. Environmental Protection (Aug 2001) ................................................... 20
70. Limitations Period (Aug 2001) ................................................................. 20
72. Encouraging Contractor Policies To Ban Text Messaging While Driving (Aug 2011) ................................................................. 20
73. Integration Clause (Aug 2001) ................................................................. 20
74. Technical Standards Program (Feb 2011) ............................................. 20
75. Suspect Counterfeit Parts (Dec 2007) ..................................................... 20
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) Definitions.

(1) Eligible employee means a current or former employee of a contractor or subcontractor employing 100 or more individuals, or any other entity that has, within any preceding 12-month period, employed 50 or more individuals, who has been laid off or otherwise permanently separated from the employer's regular employment because of a plant closing or the transfer of a major portion of the employer's operations to locations outside the United States.

(2) Layoff or termination means the involuntary separation of an employee from his or her normal or usual employment or occupation, except for a termination that is for cause.

(3) Plant closing means the complete or partial cessation of operations of an employer at a single site of employment which results in the loss of employment of employees who are not rehired within 6 months by the employer at that site of employment.

(4) Transfer means a move or relocation of an employee to another place of employment.

(c) The contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(d) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to FAR 46 C.F.R. 403, expected to exceed $500,000).

2. COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) Definitions. As used in this clause, "contingent fee," "government," "person," "person of the same line of business," and "particular line of business" mean the same as defined in 41 U.S.C. 3706.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, and is required by the Secretary of Labor to submit a report by November 30 of each calendar year, a report containing the information as required by the Secretary of Labor.

(c) The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless the contractor has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer that explain this clause.

(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. 403 expected to exceed $500,000).

3. EQUAL OPPORTUNITY (MAR 2007)

(a) Definitions. As used in this clause, "Veteran" means any person who served (i) in the armed forces of the United States; and (ii) any period of active service that is part of a period of active service of 90 days or more, and includes any period of active service that is part of a period of active service of less than 90 days during a war or in a campaign or expedition of war declared by Congress.

(b) Notice. The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless the contractor has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer that explain this clause.

(c) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.

(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. 403 expected to exceed $500,000).

4. EMPLOYMENT REPORTS FOR VETERANS (SEPT 2010)

(a) Definitions. As used in this clause, "Veteran" means any person who served (i) in the armed forces of the United States; and (ii) any period of active service that is part of a period of active service of 90 days or more, and includes any period of active service that is part of a period of active service of less than 90 days during a war or in a campaign or expedition of war declared by Congress.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, and is required by the Secretary of Labor to submit a report by November 30 of each calendar year, a report containing the information as required by the Secretary of Labor.

(c) The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless the contractor has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer that explain this clause.

(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. 403 expected to exceed $500,000).

(Appplies to Contracts Equal to or Greater Than $10,000)

Federal contractors and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA) and the Uniform Relocation Assistance and Displacement for员工 (URAAD) Act for employees in the private sector. See 29 CFR Part 471. The notice, prescribed in the Department of Labor's regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively with their employers and to engage in other concerted activities. Additionally, the notice provides examples of illegal conduct by employers and employees, and contact information to the Office of Federal Contract Compliance Programs (OFCCP), the agency responsible for enforcing the NLRA. Federal contractors and subcontractors are required to post the prescribed employee notice conspicuously in places and offices where employees covered by the notice are employed, including any places where notices to employees are customarily posted both physically and electronically.

Obligations: (A) The Contractor shall post a Notice of Employee Rights Under Federal Labor Laws - Executive Order 13496 Notice of Employee Rights, in Adobe Reader (.pdf) format, can be downloaded from the link: www.dol.gov/ofccp/regs/compliance/framework/EmployeeRightsNotice4.pdf. If you are not able to view the notice, or if you have questions regarding the notice, you can visit a website where you can get a copy of the notice at OMB-Public: (202) 295-1672. Successful contractors may also contact the Notice of Employee Rights Under Federal Labor Laws - Executive Order 13496 Notice of Employee Rights, in Adobe Reader (.pdf) format, can be downloaded from the link: http://www.dol.gov/ofccp/regs/compliance/framework/EmployeeRightsNotice4.pdf. If you are not able to view the notice, or if you have questions regarding the notice, you can visit a website where you can get a copy of the notice at OMB-Public: (202) 295-1672. Successful contractors may also contact the Notice of Employee Rights Under Federal Labor Laws - Executive Order 13496 Notice of Employee Rights, in Adobe Reader (.pdf) format, can be downloaded from the link: http://www.dol.gov/ofccp/regs/compliance/framework/EmployeeRightsNotice4.pdf. If you are not able to view the notice, or if you have questions regarding the notice, you can visit a website where you can get a copy of the notice at OMB-Public: (202) 295-1672.

7. Notice of Employee Rights Under the National Labor Relations Act (Dec 2010)

Appplies To Contracts That Exceed $10,000 In Value

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities related to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in accordance with the prescribed format and to the extent practicable, in the language of the employees at the worksite. The notice shall be in a conspicuous place where employees may readily see it. The employee notice shall be prepared by the National Labor Relations Act and is in a form prescribed by the Secretary of Labor.

(b) If the Contractor does not post the notice required under paragraph (a) of this section, the Contractor shall post at the Contractor's place of business a Notice of Employee Rights and Labor Relations Act, which is available at www.dol.gov/olms/regs/compliance/EmployeeRightsNotice4.pdf. The Notice of Employee Rights and Labor Relations Act shall be in a form prescribed by the Secretary of Labor and shall be designed to inform employees of their rights under the NLRA and the FLC.

8. Employment Eligibility Verification (Jan 2009)

Applies to:

(a) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item or an item that would be a COTS item, but for minor modifications), performed by the Contractor, and are normally provided for by the COTS item provider, and are normally provided for by the COTS item provider.

(b) Subcontractors

(c) Has a value of more than $10,000.

Definitions. As used in this clause—

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

(i) Means any item of supply that is—

(A) An item of supply (as defined in paragraph (1) of the definition at 2.101) that is sold in the commercial marketplace;

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

(C) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 52.222-3, "bulk cargo" is defined as having a minimum weight of 500 pounds and is not packaged or has homogenous characteristics.

(b) The Contractor shall use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(c) Provides the Secretary of Labor, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

ENFORCEMENT

The Department of Labor will enforce the requirements of the NLRA and the FLC in accordance with existing enforcement policies and procedures.

(a) The Department of Labor shall not impose any sanctions against a contractor who is not in compliance with the requirements of this section.
9. AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)

This clause applies to all subcontracts with a value in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary.

(a) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall have no basis for refusing to employ, and shall not engage in any practice or conduct that results in discrimination against any employee because of an actual or perceived physical, mental or health disability.

(2) The Contractor agrees to notify all qualified applicants and employees of job openings in positions for which they are qualified.

(b) Posting.

(1) The Contractor is required to post the Notice of Disability Rights, which may be obtained from the Department of Labor’s Office of Federal Contract Compliance Program, in the work area(s) where employees are present, and shall provide such notice in a manner prescribed by the Secretary of Labor.

(c) Duties.

(1) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall include the requirements of this clause in the subcontract, and shall require the subcontractor or supplier under whom the employee is employed to comply with the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the subcontract.

(2) Option to verify employment eligibility of all employees. The Contractor may elect to verify the employment eligibility of all employees through E-Verify and may require employees to participate in E-Verify and follow the applicable verification requirements at (b)(1) or (b)(2), respectively.

(3) Did the Contractor perform an electronic background check? The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program.

10. SECURITY (MAR 2011)

a. Responsibility. It is the Contractor’s duty to protect all classified information, special nuclear material, and other DOE security-relevant information in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all DOE security-relevant information, and be responsible for ensuring that all DOE security-relevant information, as well as DOE security-relevant information that is properly identified as classified information that is in the possession or control of the Contractor as a result of the Contractor’s possession in connection with the performance of work under this contract against sabotage, espionage, loss, or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or discontinuance of work, return or destroy all classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor’s control. The Contractor shall not retain any classified or special nuclear material which is required to be released after the completion or termination of the contract. The Contractor shall identify the items and classification levels and categories of matter proposed for retention, and the period of retention, for any special nuclear material that shall not be retained after the completion or termination of the contract.

b. Subcontracts. The Contractor agrees to comply with all security regulations and contract requirements of DOE for such subcontractors or suppliers as may be required by the contract.

c. Definition of Classified Information. The term "classified information" means any information that is restricted as described in Section 4 of the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12356, Classified National Security Information, as amended, or prior executive orders.

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

e. Definition of Formerly Restricted Data. The term "Formerly Restricted Data" means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as national security information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data. The term "Formerly Restricted Data" means: (1) all information that has been determined to be "national security information" that has been determined to require protection against unauthorized disclosure under Executive Order 12356, Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure as Special Nuclear Material or Special Nuclear Material; and (2) any other term, condition, or privilege of employment.

f. Definition of Special Nuclear Material. The term "special nuclear material" means: (1) plutonium, uranium enriched in the isotopes 233 or 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material; or (2) any other material artificially enriched by any of the foregoing, but does not include source material.

g. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

h. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

i. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

j. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

k. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

l. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

m. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

n. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

o. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

p. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

q. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

r. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

s. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

1. Definition of Nuclear Criticality Safety Information. The term "nuclear criticality safety information" means: (1) the design, construction, operation, or utilization of a nuclear critical facility, and the operation of any nuclear critical system of such a facility; and (2) any other term, condition, or privilege of employment.

2. The Contractor must comply with the requirements of this clause, including the applicable verification requirements at (b)(1) or (b)(2) of this clause, in such subcontractor's work in the United States.
criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794). Contractors are encouraged to submit to the Contracting Officer all data, documents, and information which would normally be classified at the time of request by the Federal Government, including the contractor shall make a good faith or would demand or be required to do so. The contractor must provide written notice of the Contractor to avoid or mitigate foreign ownership, control, or influence. In making this determination, the contractor shall ensure that the work involves the classification and declassification of information, documents, or material. In this section, “information” means facts, data, or knowledge itself. "Document" means the physical medium on or in which such information is recorded, and "material" means anything that contains information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" as classified under the Atomic Energy Act of 1954, as amended, and the "National Security Information" (classified under Executive Order 12958 or prior Executive Orders). The contractor to classify or declassify information is considered an inherently Governmental function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other contractors are not authorized to serve as classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government Original Classifiers. (c) Authorization to contractor shall ensure that the contractor shall ensure that written information that may contain classified information is reviewed by either a Federal Government or a contractor Derived Classifier in accordance with classification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not to be classified, a contractor shall notify the contractor that the information must be released or not released as a classified or declassified document. The contractor shall not declassify documents which have been classified at the time of request to be protected. The contractor shall make available to the public in order to maximize the public's access to as much Government information as possible while minimizing security costs. The contractor shall maintain all copies of the original subcontract in which involves or may involve access to classified information.

10. CLEAN AIR AND WATER (APR 1984)

(a) “Air Act,” as used in this clause, means the Clean Air Act (42 U.S.C. 7401 et seq.).

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

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

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

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

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

“Clean water standards,” as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or other standard or other requirement promulgated under the Water Act or other standard or other requirement promulgated under the Water Act or other standard or other requirement promulgated under the Water Act or other standard or other requirement promulgated under the Water Act.

(c) “Compliance,” as used in this clause, means compliance with --

(1) Clean-air or water standards; or

(2) A schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency under the laws of the United States or any political subdivision thereof.

“Facility,” as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a contractor or subcontractor at any tier, and any installation, structure, or equipment located on such site which is subject to or parts of which are subject to the control of the Administrator, or a designer or operator of the Environmental Protection Agency, determines that independent facilities are collocated in one geographical area.

Water Act. As used in this clause, means Clean Water Act (33 U.S.C. 1251 et seq.).

13. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(f) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 6927(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13189). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) Any facility owned or operated by the Contractor shall declassify this contract as 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 372.65.

(2) The facility does not have 10 or more full-time employees as specified in 40 CFR 313.20(a) or 313.20(b).

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA or section 313(g) of EPCRA, except that the alternate thresholds at 40 CFR 372.273, provided an appropriate certification form has been filed with EPA.

(4) The facility does not fall within Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System (NAICS) codes corresponding to the following environmental regulatory authorities:

(i) Major group code 10 (except 1011, 1018, and 1049).

(ii) Major group codes 20 through 39.

(iii) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act).

(iv) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act).

(c) If the Contractor has met the exemption defined in (a) or (b), the Contractor shall comply with the provisions of this section for any applicable toxic chemicals listed in 40 CFR 372.65.

(d) The Contractor shall notify the Laboratory Procurement Representative and the Contractor, as owner or operator of a facility used in the performance of this contract that is not exempt from the reporting requirements specified in (a) or (b) above, shall notify the Laboratory Procurement Representative that omission will result in a Schedule of noncompliance.

(e) Unless otherwise exempt, the Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

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

(g) The Contractor shall notify the Laboratory Procurement Representative and the Contractor, as owner or operator of a facility used in the performance of this contract that is not exempt from the reporting requirements specified in (a) or (b) above, shall notify the Laboratory Procurement Representative that omission will result in a Schedule of noncompliance.

14. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, *days prior to the delivery of, or prior to completion of any serviced required by this contract of, items as defined in either section 112(d) or 112(e) of the Atomic Energy Act of 1954, as amended, or 112(d) of the Nuclear Regulatory Commission's regulations, or any other requirements promulgated by the Federal Government or any applicable state, or local government to ensure compliance with pretreatment regulations as required by the Environmental Protection Agency.

(b) The Contractor shall submit a list of the Contractor's notifying the Laboratory Procurement Representative or designee the description of the radioactive material, and if the Contractor will not use any of the materials described, the Contractor shall request the Laboratory Procurement Representative or designee to waive the notification. The Contractor may request that the Laboratory Procurement Representative or designee waive the notification if the Contractor will not use any of the materials described.

(c) If the Contractor has not been notified by the Laboratory Procurement Representative or designee that the Contractor is exempt from the reporting requirements as specified in (a) above, the Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(z) The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.
15. ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

(a) Definition. As used in this clause—

“Energy-efficient product” means a product that—

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

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy and Environmental Protection Agency.

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products as—

(i) [Delivered];

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

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

(iv) Furnished in the design of a building or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless—

(i) The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP;

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

16. 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—

(1) By the Contractor under a cost-reimbursement contract; and

(2) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight charges in excess of $100. Bills under $100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

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

(1) ENERGY STAR® at http://www.energystar.gov/products; and

(2) FEMP at http://www2.energy.gov/femp/procurement/ep_femp_requirements.html.

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

(a) Definitions. As used in this clause—

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. “United States” means the 50 States, the District of Columbia, and outlying areas. “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411. “Competitive Air Carrier” means an air carrier that is subject to the competition provisions of 49 U.S.C. 40118(b)(Fly America-Act) requires that all Federal agencies and Government contractors and contractors of contractors use U.S.-flag air carriers for Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for air transportation secured abroad a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products as—

(i) [Delivered];

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

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

(iv) Furnished in the design of a building or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless—

(i) The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP;

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

18. 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 50 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) whenever shipping any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are—

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

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

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

(4) Acquired with advance payment of the full purchase price; or

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

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

(1) The Contracting Officer, and

(2) The Office of Cargo Preference.

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

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

(ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.

(B) Name of vessel.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of final discharge.

(G) Description of commodity.

(H) Gross weight in pounds and cubic feet if available. Total of ocean freight revenue in U.S. dollars.

(iii) before the contract closeout.

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

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

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353).

(3) Shipments of classified supplies when the classification prohibits the use of non-

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

(i) The contractor is reselling or distributing to the Government without adding value.

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

Office of Costs and Rates
Management Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-368-2324

19. APPLICABLE LAW (OCT 1999)

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

20. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

This Clause Does Not Apply To Small Business Concerns.

a. Definitions. As used in this clause—

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.), which is commonly economically disadvantaged under the criteria at 43 U.S.C. 1626(c)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

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

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


“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenaitze, Juneau, Sitka, and Koniag) as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized by the Federal Government for purposes of Federal contracts with the United States and contracts with the United States for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(d). This definition also includes Indian-owned economic enterprises that meet the requirements of 43 U.S.C. 1626(c)(2).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s current subcontracting activity for the contract being negotiated within the time period specified by the Laboratory Procurement Office. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

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

1. Goals, expressed in terms of percentages of total planned subcontracting dollars, for the offeror’s small business contracting goals, with goals for women-owned small business, HUBZone small business, small disadvantaged business, and other subcontractors. The offeror shall include all subcontracts that pertain to contract performance. The offeror shall submit its subcontracting plan to the Laboratory Procurement Office at least 90 days prior to the expiration date of the subcontract.

2. The offeror shall submit the subcontracting plan to the Laboratory Procurement Office at least 90 days prior to the expiration date of the subcontract.

3. The offeror shall submit the subcontracting plan to the Laboratory Procurement Office at least 90 days prior to the expiration date of the subcontract.

4. The offeror shall submit the subcontracting plan to the Laboratory Procurement Office at least 90 days prior to the expiration date of the subcontract.

5. The offeror shall submit the subcontracting plan to the Laboratory Procurement Office at least 90 days prior to the expiration date of the subcontract.

ii. Where more than one subcontractor in the subcontract tier between the prime contractor and the Indian tribe, the offeror shall designate the appropriate subcontractor(s) to the Laboratory Procurement Office at least 90 days prior to the expiration date of the subcontract.

A. In most cases, the appropriate subcontractor is the one that provides the majority of subcontracting dollars.

To: the extent that Federal law does not exist and State law could become applicable to this contract, the law of Illinois shall apply.
2. A statement of—
   i. Total dollars planned to be subcontracted for an individual contract plan; or the offeror’s total projected subcontracts, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
   ii. Total dollars planned to be subcontracted to small businesses (including ANC and Indian tribes);
   iii. Total dollars planned to be subcontracted to veteran-owned small business concerns;
   iv. Total dollars planned to be subcontracted to service-disabled veteran-owned small businesses;
   v. Total dollars planned to be subcontracted to HUBZone small business concerns;
   vi. Total dollars planned to be subcontracted to small disadvantaged business concerns;
   vii. Total dollars planned to be subcontracted to women-owned small business concerns.

3. A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—
   i. Small business concerns (including ANC and Indian tribes);
   ii. Veteran-owned small business concerns;
   iii. Service-disabled veteran-owned small business concerns;
   iv. HUBZone small business concerns;
   v. Small disadvantaged business concerns;
   vi. Women-owned small business concerns.

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

5. A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veteran small business concerns, service-disabled veteran small business concerns, women-owned small business concerns, small disadvantaged business concerns, and HUBZone small business concerns). A firm may rely on the information contained in CCR as an accurate representation of a concern’s size and the additional characteristics for the solicitation of small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business concerns (including ANC and Indian tribes). Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

6. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs charged to each Contractor.

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

9. Assurances that the offeror will include the clause of this contract entitled “Utilization of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities, and that the offeror will include subcontracts (except small business concerns) that receive subcontracts in excess of $650,000 ($5.3 million for construction of any public facility with further subcontracting possibilities) to adopt a plan similar to the plan that complies with the requirements of this clause.

10. Assurances that the offeror will—

   a. Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
   b. Submit the Individual Subcontracting Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with the paragraph (f) of this clause using the Electronic Subcontracting Reporting System (eSRS) at www.esrs.gov. The reports shall provide information on subcontract awards to Small Business Concerns (including ANC and Indian tribes), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANC and Indian tribes), and women-owned small business concerns.
   c. Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS.
   d. Provide its own DUNS number, and the e-mail address of the offeror’s official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

11. A description of the type of reports to be submitted by contractors concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror’s efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records should include at least the following (on a plant-wide or company-wide basis):
   a. Established source lists (e.g., CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
   b. Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

iii. Records on each subcontract solicitation resulting in an award of more than $150,000, indicating—
   a. Whether small business concerns were solicited and if, not why;
   b. Whether veteran-owned small business concerns were solicited and, if not, why;
   c. Whether service-disabled veteran-owned small business concerns were solicited and, if not, why;
   d. Whether HUBZone small business concerns were solicited and, if not, why;
   e. Whether small disadvantaged business concerns were solicited and if, not why;
   f. Whether women-owned small business concerns were solicited and if, not why;
   g. If applicable, the reason for non-solicitation was not made to a small business concern.

iv. Records of any outreach efforts to contact—
   a. Business development organizations;
   b. Local, state, and trade associations;
   c. Minority concerns (e.g., HUBZone small business, small disadvantaged, and women-owned small business concerns);
   d. Veteran service organizations;
   e. Records of internal guidance and encouragement provided to buyers through—
      A. Workshops, seminars, training, etc.; and
      B. Monitoring performance to evaluate compliance with the program’s requirements.

v. On a contract-by-contract basis, reports to support award data submitted by the offeror to the Government, including the size of each subcontract. Contractors having commercial plans need not comply with this requirement.

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

1. Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor’s lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns are insufficient or not available, the Contractor may make reasonable efforts to obtain information and records on small business concerns in order to give all such business concerns an opportunity to compete over a period of time.

2. Provide adequate and timely consideration of the potentialities of small, veteran-owned, service-disabled veteran-owned, HUBZone small, small disadvantaged, and women-owned small businesses to subcontract joint efforts in the planning and execution of a subcontracting plan.

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

4. If a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA, provide notice of the certification and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business firms.

5. If a subcontractor is identified as a service-disabled veteran-owned small business, veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern, the Contractor should, as a matter of policy, take actions to prevent that concern from being awarded a subcontract unless it is included in some existing governmentcatalogued subcontract opportunity.

6. If competing or contract changes over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontractor, the Contractor shall disseminate a subcontracting plan to subcontractor(s) unsuccessful for the purpose of obtaining a subcontract that is to be included as part of all or a portion of the Contractor’s subcontracting plan.

7. For all competitions, types of subcontract awards resulting in a subcontracting plan for a small business concern, the Contractor shall publish in writing the name and location of the apparent successful offeror prior to award of the contract.

8. A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a plan of the subcontracting plan required by this contract, 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 Officer;
   3. Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

f. A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting activities for both commercial items and non-commercial items, consistent with the requirements of the Government contract. Once the Contractor’s commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, unless the offeror has been notified that the offeror’s product or service no longer meets the definition of a commercial item. A contractor with a commercial plan shall comply with the requirements of the contracts. Contractors shall submit an SSR for each successful subcontract plan for successful subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

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

10. A contract may have no more than one plan. When a modification meets the criteria in 19.702(e) for a plan, an option to exercise an existing plan or create a new option shall be included in the contract. A new option shall be added to those in the existing subcontract plan.

i. Subcontracting plans are required for those contractors when the prime contract contains the clause at 52.212-2, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item and identifies its contract as being subject to the clause at 52.212-2. Failure to comply with this clause will render the offeror’s subcontracting plan inadequate.

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

   i. An approved plan required by this clause, shall be a material breach of the contract.

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

l. Purchases from small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns are not required in this contract.

m. The Contractor or subcontractor are not included in these reports. Subcontract award data reported for small businesses, veteran-owned small businesses, service-disabled veteran-owned small businesses, HUBZone small business, and women-owned small business concerns are not required in this report. These contracts involving performance in the United States or its outlying areas should be included in these reports with the exclusion of subcontract awards contracted by another contractor while the plan remains in effect, unless the offeror has been notified that the offeror’s product or service no longer meets the definition of a commercial item. Contractors involving performance outside the United States or its outlying areas.

1. ISRS. This report shall be submitted not later than one year after the effective date of the contract. The report shall be submitted only during contract performance for the period ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been
any subcontracting activity since the inception of the contract or the previous reporting period.

ii. When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option, for example, for a report submitted after the second option is exercised, the goal would be the sum of the goals for the basic contract, the first option, and the second option.

iii. The authority to acknowledge receipt or reject the IRS resides—
A. In the case of the prime Contractor, with the Contracting Officer; and
B. In the case of a subcontractor with a subcontracting plan, with the entity that awarded the subcontract.

2. SSR.

Reports submitted under individual contract plans—
A. This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.
B. The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.
C. If a prime contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each agency covering only that agency's portion of the work. The report shall be submitted at least one of that agency's contracts is over $650,000 (over $1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and subcontracts awarded by DoD prime Contractors. However, for construction and recreation maintenance and repair, a separate report shall be submitted for each DoD component.
D. For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civil agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.
E. Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.
F. The authority to acknowledge or reject SSRs in 48 CFR, subcontracts by subcontractors to small business concerns.

The contractor shall acknowledge or reject the SSR in writing within 30 days of receipt of the report. The contractor shall notify the subcontractor in writing of the contractor's decision and the reason for the contractor's decision. The contractor shall report this acknowledgment or rejection to the subcontractor in writing.

The contractor shall report the contractor's decision to the small business concern and notify its SBA District Director in writing within 30 days of receipt of the report. If the subcontractor disagrees with the contractor's decision, the subcontractor may appeal the decision to the SBA District Director. The subcontractor may appeal the decision to the SBA District Director within 30 days of receipt of the contractor's decision.

1. DoD.

Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the Year-End Reporting Period Report; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually 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 judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included or excluded) as prescribed by FAR 15.403-4.

The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.402-2 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.

2. The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.402-2 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.

21. UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, women-owned small business concerns, and concerns owned and controlled by one or more socially and economically disadvantaged individuals shall be used to the maximum extent practicable.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later, or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually 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 judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included or excluded) as prescribed by FAR 15.403-4.

The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.402-2 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.

2. The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.402-2 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.

26. 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 15.403-4; and
(2) Be limited to such modifications.

(b) Before awarding any new or modified subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later, or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually 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 judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included or excluded) as prescribed by FAR 15.403-4.

The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.402-2 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.

(c) The Contractor shall require the subcontractor to certify, pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto:—
(1) "Small disadvantaged business concern" means a small business concern that represents, at least—
(a) It has received certification as a small disadvantaged business concern pursuant to subsection (b) of this clause as defined in 38 U.S.C. 101(16).
(b) It has no material change in disadvantaged ownership and control has occurred since its certification.
(c) Where the entity is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed $500,000, and the equity interest owned by any such individual is not more than 5 percent.
(d) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the Small Business Vendor Dynamic Small Business (SBDB) for any Federal subcontracting program, and in believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals and meets the SBDB eligibility criteria of 13 CFR 124.1002.
(e) "Veteran-owned small business concern" means a small business concern—
(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
(2) The management and daily business operations of which are controlled by one or more veterans.
(f) "Women-owned small business concern" means a small business concern—
(1) That is at least 25 percent owned by one or more women; and
(2) Whose management and daily business operations are controlled by one or more women.
28. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS (AUG 2011)

(a) This clause shall 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 15.403-4, except that this clause applies to any contract modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount (because (1) the Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor’s Certificate of Current Cost or Pricing Data; or (2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor’s Certificate of Current Cost or Pricing Data, 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. This price or cost reduction is limited to the extent that it results from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount applicable to 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 subcontract cost or subcontract price that was not itself affected by defective certified cost or pricing data.

(d) If the Contractor certifies 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:

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

(B) That the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(C) That the contractor 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.

(E) That the Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(e) Except as prohibited by subdivision (c)(2)(A) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(i) The Contractor or subcontractor that, to the best of the Contractor’s knowledge and belief, the Contractor is entitled to offset in the amount requested; and

(ii) An offset shall not be allowed if—

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

(B) The Government proves that the facts demonstrate that the contract price would not have been modified even if the accurate certified cost or pricing data had been submitted before the “as of” date specified on its Certificate of Current Cost or Pricing Data.

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

29. LIMITATIONS ON PASS-THROUGH CHARGES (OCT 2009)

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

(A) "Additional value" means that the Contractor performs subcontract management functions that the Contracting Officer determines are a benefit to the Government (e.g., processing orders of parts or services, managing subcontract inventories, managing multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).

(B) "Excessive pass-through charge," with respect to a subcontractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government by the Contractor or subcontractor that is for indirect costs or profit/fee on work performed by a subcontractor (other than charges for the costs of managing subcontracts and any applicable indirect costs and associated profit/fee based on such costs).

No or negligible value means the Contractor or subcontractor cannot demonstrate to the Contracting Officer that its effort added value to the contract or subcontract in accomplishing the work performed under the contract (including task or delivery orders). "Subcontractor," as defined in FAR 41.101, means supplier, distributor, vendor, or firm that furnishes supplies or services for performance of the contract or a subcontract. It includes but is not limited to purchases, orders, and changes in supplies or services to purchase order 2.101 entered into by a subcontractor to furnish supplies or services for performance of the contract or a subcontract. For applicable DoD fixed-price contracts, identified in 15.408(b)(2)(ii)(a), the Government shall be entitled to a price reduction for the amount of excessive pass-through charges included in the contract price.

Access to records.

(1) The Contracting Officer, or an authorized representative, shall have the right to examine and audit all the Contractor’s records (as defined at FAR 52.215-2(a)) necessary to determine whether the contractors or subcontractors charged excessive pass-through charges.

(2) For Subcontracts to which paragraph (f) of this clause applies, the Contracting Officer, or an authorized representative, shall have the right to examine and audit all the subcontractors’ records (as defined at FAR 52.215-2(a)) necessary to determine whether the subcontractors’ pass-through charges were excessive.

(3) Flowdown. The Contractor shall insert the substance of this clause, including this paragraph (f), in all cost-reimbursement subcontracts and fixed-price subcontracts under this contract that exceed the simplified acquisition threshold, except if the contract is with DoD, then insert in all cost-reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.408(b)(2)(ii)(a), the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.

30. CHANGES (JUNE 2007)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order, make changes in the work to be performed under this contract, including changes—

(1) In the specifications, drawings, and designs;

(2) In the method or manner of performance of the work;

(3) In the Government’s requirements for delivery of the work;

(4) In the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, instruction, interpretation, or determination) from the Contracting Officer that causes a change under this clause; Provided, that the Contractor gives the Contracting Officer written notice of the change as required by this paragraph;

(5) In the contract price for an equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(b) If any change under this clause causes an increase or decrease in the Contractor’s cost, or the time required for, any performance of the work under this contract, whatever the cause, the Contracting Officer shall, unless otherwise agreed upon by the parties, make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, any such adjustment for contractor’s cost incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include verification that the Contractor is entitled to a price reduction for any costs incurred more than 20 days before the Contractor gives written notice as required.

(c) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

31. 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 or of the public enemy, (2) acts of the Government in either of its sovereign or
contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform might extend beyond the control 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 a subcontractor at any tier to perform 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 obtainable from other sources;
(2) The Laboratory ordered the contractor in writing to purchase these supplies or services from other source; and
(3) The contractor failed to comply reasonably with this order.

(c) Upon receipt of the contractor, the Laboratory shall ascertain the facts and extent of the failure. If the Laboratory determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Laboratory under the termination clause of this contract.

32. 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 operations at any one plant or separate location at which the contractor is being performed; or
(3) A separate and complete major industrial operation connected with the performance of this 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, fabricating 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 Laboratory has the right to inspect and test all materials furnished and services performed under this contract, to the extent permitted by the contract, including, but not limited to, testing of the materials and performance, and in any event before acceptance. The Laboratory may also inspect the plant or facilities of the contractor or any subcontractor performed in contract performance.

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

(e) If the Laboratory performs inspection or test on the premises of the contractor or a subcontractor, the contractor shall furnish and maintain all materials required for the inspection and shall furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(f) Unless otherwise specified in the contract, the contractor shall accept or reject materials and materials at the place of delivery as promptly as practicable after delivery, and they shall be presumed accepted 60 days after the delivery date, unless accepted earlier.

(g) At any time during contract performance, but not later than 5 months (or such other time as may be specified in the contract) after acceptance of the services or materials delivered under this contract, the Laboratory may require the contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (f) below, the cost of replacement or correction shall be determined under the contract, but the "hourly rates" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. The contractor shall not tender for acceptance materials or services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(h) If the contractor fails to provide replacement or repair or to perform replacement or correction, the contractor may be held responsible for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under replacement or repair type contracts shall not be included in the cost of the contract. The contractor shall give the Laboratory Procurement Official's written notice of any action or suit filed and prompt notice of any claim made against the contractor by any subcontractor or vendor for nonpayment of amounts due, unless such contract is in litigation relating to the contract at any time, to the Laboratory, with respect to which the contractor may be entitled to reimbursement from the Government.

(i) The Laboratory reserves the right to review the Contractor’s purchasing system as set forth in FAR Subpart 4.4.

(j) Paragraphs (e) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

35. ASSIGNMENT (OCT 1999)

Neither this contract nor any interest therein nor claim there under shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory. The Laboratory may assign the contractor's rights hereunder to its parent corporation or its designated. The Laboratory may assign this contract to a successor operator of the Laboratory.

36. SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)

(a) Definitions. As used in this clause—

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

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require their subcontractors to incorporate, at all tiers to incorporate, commercial items or nondeliverable items as components of 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) (Pub. L. 110-352, Title II, Chapter 1 (41 U.S.C. 735 note)), if the subcontract exceeds $5,000,000, and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act, 31 U.S.C. 3729 et seq., or violation of the DFARS contained within this clause shall be directed to the Inspector General, with a copy to the Contracting Officer.


(3) 52.219-2, Small Business Concerns (Dec 2010) (15 U.S.C. 637(d)(2) and (3), if the subcontract offers further subcontracting opportunities, if the subcontract (except subcontracts to small business concern) exceeds $5,000,000 (31.5 million for construction of any public facility), the subcontractor must include 52.219-1 in lower tier subcontracts that offer subcontracting opportunities.

(4) 52.222-12, Equal Opportunity (May 2007) (42 U.S.C. 2000e-4(a)).

(5) 52.223-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212(a)).


(7) 52.223-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2002) (29 U.S.C. 158(a) and (b)), if the subcontract is over $25,000 or if the work is performed at the site of a labor dispute.

(8) 52.225-50, Good Business Conduct (Feb 2009) (42 U.S.C. 2012(a)).

(9) 52.227-71, Qualifying Trafficking in Persons (Feb 2009) (22 U.S.C. 11044).

(10) 52.227-74, Prequalified for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241, and 10 U.S.C. 2611), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(11) 52.232-7, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241, and 10 U.S.C. 2611), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(12) 52.232-9, Prequalified for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241, and 10 U.S.C. 2611), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(13) 52.232-9, Prequalified for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241, and 10 U.S.C. 2611), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(14) 52.232-9, Prequalified for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241, and 10 U.S.C. 2611), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.
(4) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

37. GOVERNMENT PROPERTY (AUG 2010)

(a) Acquisition. As used in this clause—

(1) "Acquisition cost" means the amount of money required to acquire a tangible asset, including the purchase price of the asset and any related expenses necessary to acquire the asset.

(2) "Contractor's inventory" means—

(i) Any item that the Contractor identifies as "Government property" and shall include—

(A) Government property; and

(B) Contractor property other than the items listed in paragraph (a)(1)(A).

(ii) All government property now owned by the Contractor, or acquired by the Contractor through the exercise of the contract.

(b) Use or possession of Government property. The Contractor shall use Government property, either furnished or acquired under this contract, for the purpose for which it was designed or is customarily used. The Contractor shall not cannibalize Government property unless otherwise provided for in this contract.

(c) Property management. The Contractor shall maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management, except where inconsistent with law or regulation. During the period of performance, the Contractor shall maintain a system of records that identifies Government property and its disposition, consistent with the identification system maintained by the Government, and shall cooperate with the Government in the administration of the property. The Contractor shall maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management, except where inconsistent with law or regulation.

(d) Use and possession of Government property. The Contractor shall use Government property, either furnished or acquired under this contract, for the purpose for which it was designed or is customarily used. The Contractor shall not cannibalize Government property unless otherwise provided for in this contract.

(1) The Contractor shall use Government property, either furnished or acquired under this contract, for the purpose for which it was designed or is customarily used. The Contractor shall not cannibalize Government property unless otherwise provided for in this contract.

(2) The Contractor shall maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management, except where inconsistent with law or regulation.

(3) The Contractor shall maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management, except where inconsistent with law or regulation.

(e) Disposal of Government property. The Contractor shall use Government property, either furnished or acquired under this contract, for the purpose for which it was designed or is customarily used. The Contractor shall not cannibalize Government property unless otherwise provided for in this contract.

(1) The Contractor shall use Government property, either furnished or acquired under this contract, for the purpose for which it was designed or is customarily used. The Contractor shall not cannibalize Government property unless otherwise provided for in this contract.
Accountable contract number or equivalent code designation.
(6) Location.
(7) Disposition.
(8) Posting reference and date of transaction.
(9) Date placed in service.
(B) Use of a Receipt and Issue System for Government Material. When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.
(iv) Physical inventory. The Contractor shall periodically perform, record, and disclose physical inventory results, measurement in the circumstances in which the overall reliability of the Contractor’s system of the property is to be transferred to a follow-on contractor.
(v) Subcontractor control.
(A) The Contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions (e.g., extent of liability for loss, theft, damage or destruction of Government property).
(B) The Contractor shall ensure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor’s property management practices.
(vi) Reports. The Contractor shall have a process to create and provide reports of discrepancies, loss, theft, damage or destruction; physical inventory results; audits and self-assessments; concerns of the Laboratory’s property administrator, the Contractor shall be responsible for the adequacy of the subcontractor’s practices.
(A) Loss, theft, damage or destruction. Unless otherwise directed by the Property Administrator, the Contractor shall investigate and promptly furnish a written narrative of all incidents of loss, theft, damage or destruction to the property administrator as soon as the facts become known or when requested by the Government.
(B) Such reports shall, at a minimum, contain the following information:

1. Date of incident (if known).
2. The name, commercial description, manufacturer, model number, and National Stock Number (if applicable).
3. Quantity.
4. Unique-identifier (if available).
5. Accountable Contract number.
6. A statement indicating current or future need.
7. Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.
8. All known interests in the damaged or destroyed property.
9. Cause and corrective action taken or to be taken to prevent recurrence.
10. A statement that the Government will receive any reimbursement due to the Contractor’s system or the property is to be transferred to a subcontractor.
11. Post-incident date (if known).
12. Copies of all supporting documentation.
13. Last known location.

Relief of stewardship responsibility. Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility for Government property when such property is:
(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in performance of the contract, including reasonable inventory adjustments as determined by the Property Administrator; or a Property Administrator granted relief of responsibility for loss, theft, damage or destruction of Government property.
(B) Delivered or shipped from the Contractor’s plant, under Government instructions, except when shipment is to a subcontractor or other location of the Government.

Utilizing Government property.
(A) The Contractor shall utilize, consume, move, store Government property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.
(B) Unless otherwise authorized in this contract or by the Property Administrator, the Contractor shall not commingle Government material with material not owned by the Government.

Maintenance. The Contractor shall properly maintain Government property. The Contractor’s maintenance program shall ensure that Government property is maintained in accordance with normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

Property closeout. The Contractor shall promptly perform and report to the Property Administrator a contractor property closeout, including reporting, investigating and securing closure of all loss, theft, damage or destruction cases; physically inventorying all property, liquidating or completing this contract; and disposing of items at the time they are determined to be excess to contractual needs.
(2) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and disposition of material.
(3) The Contractor shall establish and maintain procedures necessary to assess its property management system’s effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or recommendations arising from these reviews and audits pertaining to Government property shall be made available to the Property Administrator.
(g) Systems analysis.
(1) The Government shall have access to the Contractor’s premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor’s property management plan(s), systems, procedures, records, and supporting documentation that pertains to Government property. This access includes all site locations and, with the Contractor’s consent, all subcontractor premises.
(2) Records of Government property shall be readily available to authorized Government personnel and shall be appropriately safeguarded.
(3) Should it be determined by the Government or the Contractor’s (or subcontractor’s) property management practices are inadequate or not acceptable for the effective management and control of Government property under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan when requested by the Property Administrator and take all necessary corrective actions as specified by the schedule within the corrective action plan.
(4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor’s property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.
(h) Contractor Liability for Government Property.
(1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss, theft, damage or destruction to the Government property furnished or acquired under this contract, except when any of the following conditions are present:
   (i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined by the Government.
   (ii) The loss, theft, damage or destruction is the result of willful misconduct or lack of total failure of the Contractor to properly safeguard the property or personnel.
   (iii) The Government property or property furnished under contract will not be destroyed or damaged.
   (iv) The Contractor’s performance practices are inadequate, and/or present an undue risk to the Government.

Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Contractor shall not be liable for breach of contract for the following:
(1) Any delay in delivery of Government-furnished property.
(2) Delivery of Government-furnished property in a condition not suitable for its intended use.
(3) Increase, decrease, or substitution of Government-furnished property.
(4) Failure to repair or replace Government property for which the Government is responsible.

(1) Contractor inventory disposal. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.
(2) Premises requirements. The Contractor shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable reselling fee that is the property owner’s normal business practice).

Scrap to which the Government has obtained title under paragraph (e) of this clause.
(A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires Government verification, the Contractor shall prepare an inventory disposal schedule.
(B) The Contractor shall prepare an inventory disposal schedule for all scrap. If the Contractor is asked to dispose of scrap under a Government contract, the Contractor shall submit the scrap on an inventory disposal schedule.
(C) The Contractor shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable reselling fee that is the property owner’s normal business practice).

Inventory disposal schedules.
(i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, property that was not used in the performance of other Government contracts and was purchased after the effective date of this clause, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules.

(j) Contractor inventory disposal. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.

(f)(1)(iii)
(v) Property with the same description, condition code, and reporting location may be grouped in a single line item.

(2) The Contractor shall maintain records with respect to each item of property or other than those of a contractual nature which are the property of the Government or the Contractor. Such records shall be maintained in accordance with the provisions of the Federal Acquisition Regulation.

38. CONDUCT OF EMPLOYEES (AUG 2009)

The contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, character, and behavior and shall be responsible for the discipline and supervision of its employees as may be necessary. The Contractor shall immediately remove from the work any employee of the contractor who, in the sole discretion of the Laboratory, is found to be unsatisfactory in technical performance or personal conduct.

39. PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)


(b) The Contractor shall assist and cooperate with any Government-provided identification issued to the Contractor employee in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

1. When no longer needed for contract performance.
2. Upon completion of the Contractor employee’s employment.
3. Upon contract completion or termination.
4. The Laboratory Procurement Official may delay final payment under a contract if the Contractor fails to return the identification within the time period prescribed by the Laboratory.

(c) The Contractor shall submit the substance of clause, including this paragraph (d), in all subcontracts when the subject subcontractor’s employees are required to maintain physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system.

40. KEY PERSONNEL (DEC 2000)

(a) The personnel listed in Clause 39, Key Personnel, are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must:

1. Notify the Laboratory Procurement Official reasonably in advance;
2. Submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract;
3. Obtain the Laboratory Procurement Official’s written approval.

(b) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

41. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION (JUL 2005)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see definition) shall be entitled to an equal per-hour rate of wages prescribed in this clause until the Contractor has made the necessary adjustments to the laborer’s or mechanic’s regular wages for the workweek in which the overtime work was performed.

(b) Violation; liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms of paragraph (a) of this clause. The liquidated damages payable to the Government are computed as follows:

(i) For amounts not exceeding $1,000, liquidated damages payable to the Government shall be 50% of the amount of unpaid wages.
(ii) For amounts exceeding $1,000, liquidated damages payable to the Government shall be 100% of the amount of unpaid wages.

(c) Withholding for unpaid wages and liquidated damages. The Laboratory Procurement Representative will assess liquidated damages against all employees and any subcontractor’s employees for each calendar day on which the employer required or permitted the employee to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the Contract Work Hours and Safety Standards Act.

(d) Payrolls and basic records.

(i) The Contractor and its subcontractors shall maintain payrolls and basic records reflecting the total wages paid to each employee for each calendar quarter at which work was performed, the number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required or permitted the employee to work in excess of the standard workweek of 40 hours.

(ii) The Contractor and its subcontractors shall allow representatives of the Labor Department to inspect, copy, and make extracts from such records, to the extent permitted by law, during regular business hours.

(iii) The Contractor and its subcontractors shall allow representatives of the Labor Department to interview in the workplace employees who may be affected by the provisions of this clause, at a time not to exceed 30 days after receipt of notice from such representatives.

42. WALSH-HEALEY PUBLIC CONTRACTS ACT (OCT 2010)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $15,000.00 and is otherwise subject to the Walsh-Healey Public Contracts Act (as amended) (41 U.S.C. 35) (as amended), 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 2009)

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

(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs with 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 shall be construed to prevent the use of any method of distributing costs to line items that is not acceptable except when there is little or no variation in base cost.

(b) When requested by the Contractor, the Office/Contractor will also identify those suppliers that it will not manufacture to or with which it will not contract for supplies.

(c) The Contractor shall maintain the substance of this clause, less paragraph (d), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 39; services where supplies are not required; commercial items, and petroleum products.

44. WARRANTY OF SERVICES (MAY 2001)

(a) Definition. “Acceptance,” as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract.
45. WARRANT OF SELLERS (DEC 2011)

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

Energy Consuming Products

When the contractor requires the specification or delivery of energy consuming products for use in Federal facilities, the contractor will specify or deliver EnergyStar® qualified products or products conforming to the Federal Energy Management Program’s (FEMP) Energy Efficiency Requirements, wherever applicable, provided products with such a designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for EnergyStar® at:

http://www.energystar.gov/products

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Supply Chain Integrity (http://www.epa.gov/greening/procurement/exec13423.htm) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (http://www.archives.gov/federal- registers/FR-2010-04252).

(b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the procurement of supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the Contractor shall hold the contractor harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Laboratory.

46. BUY AMERICAN ACT – SUPPLIES (FEB 2009)

(a) Definitions. As used in this clause—

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

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

(i) An item of supply (as defined in paragraph (1) of the definition at FAR 2.101(i)) sold in substantial quantities in the commercial marketplace; and

(ii) Provided to the Government as part of a prime contract or subcontract at any tier, but 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 section 3 of the Shipping Act of 1946 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

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

“Cost of components” means—

(1) The cost of components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, duty costs, and any applicable duties; provided, the cost of components does not include any costs associated with the manufacture of the end product.

“Domestic end product” means—

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

(2) An end product manufactured in the United States;

(i) The cost of its components mined, produced, or manufactured in the United States; and

(ii) That the component or sub-component is of foreign origin of the same class or kind as that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.

“End product” is a COTS item.

“End product method” those materials, and supplies to be acquired under the contract for public use.

“Foreign end product” means an end product other than a domestic end product.

“Unmanufactured” means the 50 States, the District of Columbia, and outlying areas.

(b) The Buy American Act (41 U.S.C. 10a-10) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the contractor may apply for an exemption under paragraph (a)(1) of this definition that a COTS item to meet the Buy American Act (see 12.206(a)(1)).

(c) Certification from the Contracting Officer is a foreign article that the Contractor will treat for domestic use.

The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled “Buy American Act 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 imposed on or collected from the Contractor with respect to the work, any transaction thereunder, or property in the custody or control of the contractor and constituting an allowable cost if due and payable to the Contractor, on or after the date of termination, because of the termination. The contract shall be amended, and the Contractor paid the amount determined.

(b) Notwithstanding inspection and acceptability by the Laboratory or any provision concerning the procurement of supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the contractor shall hold the contractor harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Laboratory.

48. TERMINATION (COST-REIMBURSEMENT) MAY 2004

(a) The Laboratory shall terminate performance of work under this contract in whole or in part, in part—

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

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Contracting Officer) after receiving a notice specifying 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 Termination specifying whether termination is for default of the Contractor or for convenience of the Government, the effective date of termination, and the reason for the determination for default. It is determined that the Contractor was not in default or that the Contractor’s failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor as set forth in the Excusable Delays clause, the rights and obligations of the parties will be the same as if the termination was for the convenience of the Government.

(c) After receipt of a Notice of Termination, and except as directed by the Laboratory Procurement Official, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjudging any amount due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the continued portion of the contract.

(3) Deliver all materials, supplies, and equipment acquired for use in the United States. In accordance with 41 U.S.C. 431, the Contractor shall hold the contractor harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Laboratory.

49. MODIFICATION OF CONTRACT TERMS (JAN 2005)

(a) The Laboratory may make equitable adjustments in the contract price or otherwise modify the contract terms, if the Laboratory determines that the contract price or contract terms are not appropriate or equitable, upon notifying the Contractor.

(b) The Contractor may make equitable adjustments in the contract price or otherwise modify the contract terms, if the Contractor determines that the contract price or contract terms are not appropriate or equitable, upon notifying the Laboratory.

(c) The Contractor and the Laboratory may agree on the whole or any part of the amount to be paid (including an allowance for fee) on the basis of their determination for the modification.

(d) The Contractor may agree with the Laboratory to make any equitable adjustment in the contract price, or otherwise modify the contract terms, upon notification of the Contractor by the Laboratory.

(e) The Laboratory may agree with the Contractor to make any equitable adjustment in the contract price, or otherwise modify the contract terms, upon notification of the Contractor by the Laboratory.

(f) The Contractor and the Laboratory may agree on the whole or any part of the amount to be paid (including an allowance for fee) on the basis of their determination for the modification.

(g) The Contractor may agree with the Laboratory to make any equitable adjustment in the contract price, or otherwise modify the contract terms, upon notification of the Contractor by the Laboratory.

(h) The Contractor may agree with the Laboratory to make any equitable adjustment in the contract price, or otherwise modify the contract terms, upon notification of the Contractor by the Laboratory.

(i) The Contractor may agree with the Laboratory to make any equitable adjustment in the contract price, or otherwise modify the contract terms, upon notification of the Contractor by the Laboratory.

(j) The Contractor may agree with the Laboratory to make any equitable adjustment in the contract price, or otherwise modify the contract terms, upon notification of the Contractor by the Laboratory.

50. ASSIGNMENT OF CONTRACT RIGHTS (FEB 1995)

(a) The Contractor agrees to notify the Laboratory of any State or local tax, fee, or charge levied or imposed on or collected from the Contractor with respect to the work, any transaction thereunder, or property in the custody or control of the contractor and constituting an allowable cost if due and payable to the Contractor, on or after the date of termination, because of the termination. The contract shall be amended, and the Contractor paid the amount determined.

(b) Notwithstanding inspection and acceptability by the Laboratory or any provision concerning the procurement of supplies acquired for use in the United States. In accordance with 41 U.S.C. 431, the contractor shall hold the contractor harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Laboratory.
(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited.

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

(a) The contractor shall be paid as follows with respect to the allowable costs set forth in the PAYMENTS (FEB 2004)

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

(n) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee provision.

50. FINISHING OF WORK AT CONTRACT TERMINATION (JUL 2004)

(2) The amount determined by the Laboratory Procurement Official if there is no right of appeal or if no timely appeal has been taken; or

(k) The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(l) The Contractor shall have the right of appeal, from any determination made by the Laboratory Procurement Official, under paragraph (k) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (f) and failed to request a timely extension, there is no right of appeal. If the Laboratory Procurement Official has made a determination of the amount due under paragraphs (f), (h), or (i) of this clause, the Contractor shall pay the Contractor—

(l) The Contractor may, by the Laboratory Procurement Official, prepare the final settlement proposal.

(k) The Contractor shall have a right of appeal, from any determination made by the Laboratory Procurement Official, under paragraph (h) of this clause, except that if the Contractor failed to submit the termination settlement proposal within the time provided in paragraph (l) and failed to request a timely extension, there is no right of appeal. If the Laboratory Procurement Official has made a determination of the amount due under paragraph (h) or (i) of this clause, the Contractor shall pay the Contractor—

(g) Prior to final payment under this contract, the contractor shall submit a completion invoice and the contractor and each assignee under this contract whose assignment is in effect at the time of completion shall be paid an amount that is consistent with the amount normally paid for such services in the Federal Government.

(b) “Person” means an individual, corporation, company, association, authority, firm, partnership, group representative organization, and any other instrumentality of a local government.

(3) A special Government employee, as defined in section 202, Title 18, United States Code, including a position under a temporary appointment.

(4) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

The laboratory will not issue payment unless a completed form ANL-661 is included with all invoices (regardless if property is being invoiced on a particular invoice or not).

(c) The contractor shall be paid monthly (or at more frequent intervals if approved by the Laboratory) upon submission of properly certified and correct invoices bearing the contract number(s) and the cost code(s) within the cost code(s) specified for each transaction as the result of a Federal contract. Such costs shall be paid to the contractor in the manner of the various compensable items under this contract. Said payments shall be tentative and subject to subsequent audit and adjustment to assure that payment is properly effected in accordance with the applicable provisions of this contract.

(f) The Contractor shall identify the invoice for the work by affixing in a prominent place the words FINAL INVOICE.

(e) By the twenty-fifth (25th) day of each month, during performance of this contract, the contractor shall furnish an annual laboratory to the Labor Department of the Government of the United States.

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

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

 çıkarılan ilk sayfa için okunabilen metin temsilidir.
person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Section 1352 of title 31, U.S.C. does not prohibit a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence the award or continuation, renewal, amendment, or modification of a Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

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 or, (2) if this is a cost-sharing contract, the Laborator y's share of the estimated cost specified in the Schedule. The parties also agree that (1) the contractor is not obligated to continue performance under this contract if the estimated cost 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; and (2) the contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the Schedule, unless the Authorized Laboratory Procurement Official shall affirm this contract's cost exceeds the estimated cost.

(b) The contractor shall notify the Authorized Laboratory Procurement Official in writing whenever it has reason to believe that—

(1) The limits the contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule; and

(2) The total cost for the performance of this contract, exclusive of any fee, will exceed substantially the estimated cost in the Schedule.

(c) The contractor is required to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the Schedule, unless the Authorized Laboratory Procurement Official shall affirm this contract's cost exceeds the estimated cost.

(d) Except as required by other provisions of this contract, specifically cited 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 the estimated cost specified in the Schedule, unless the Authorized Laboratory Procurement Official shall affirm this contract's cost exceeds the estimated cost.

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 notify the Authorized Laboratory Procurement Official whenever it determines that the contractor's costs under this contract will exceed (1) the estimated cost specified in the Schedule, which, if this is a cost-sharing contract, includes both the Laboratory's share of the cost and the contractor's share of the cost; and (2) the contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated cost specified in the Schedule.

(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 contractor's share if this is a cost-sharing contract. The parties contemplate that the Laboratory will add additional funds incrementally to the contract so that the full amount so far estimated will be paid to the Laboratory in the Schedule, exclusive of any fee. The contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Laboratory under the contract exceeds the full amount so far estimated in the Schedule, exclusive of any fee.

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

(i) The contractor is not obligated to reimburse the contractor for costs incurred in excess of the total amount estimated by the Laboratory to the contractor or the contractor's corresponding share, until the Authorized Laboratory Procurement Official shall affirm this contract's cost exceeds the estimated amount.

(ii) The contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated amount.

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

(i) The Laboratory is not obligated to reimburse the contractor for costs incurred in excess of the total amount estimated by the Laboratory to the contractor for the contractor's corresponding share, until the Authorized Laboratory Procurement Official shall affirm this contract's cost exceeds the estimated amount.

(ii) The contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of the estimated amount.
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 work performed in the performance of this contract by contractor personnel (excluding travel time) at the appropriate loaded hourly rates specified for the pertinent labor classifications. The appropriate loaded hourly rates shall apply during the term(s) specified. Said loaded rates shall include wages, overhead, general and administrative expense and profit.

(b) Materials, Supplies, Computer Time.

The actual direct cost to the contractor for materials, supplies, and computer time necessary to perform the work of this contract, provided, however, that the contractor shall, to the extent of his ability, procure materials at the most advantageous prices available without due regard to prompt delivery of satisfactory materials.

(c) Travel.

In connection with furnishing the services under this contract it may be necessary for contractor personnel to make authorized trips from time to time on official business. It is noted that travel time is not compensable (see Paragraph (a) Labor above) and travel expenses are reimbursable in accordance with the following rules:

(i) When an employee, in the performance of work under this contract, incurs travel time, in excess of that for which allowance is made by the Laboratory to the contract is increased, any costs the contractor incurs before the increase that are in excess of--

(1) The amount previously allowed by the Laboratory or--

(2) This is a cost-sharing contract, the amount previously allowed by the Laboratory to the contractor plus the contractor's corresponding share, shall be allowable to the same extent as if spent afterward, unless such travel time has resulted in the termination of the contract or other notice and directs that the increase is solely to cover termination or other specified expenses.

(i) Change in the Laboratory specified in the Schedule shall not be considered an authorization to exceed the amount allotted by the Laboratory in the Schedule, unless they contain a statement increasing the amount allotted.

(ii) Nothing in this clause shall affect the right of the Laboratory to terminate this contract.

(k) Anti-Kickback Procedures (Oct 2010)

(1) Kickback; as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, by any prime contractor, prime contractor employee, or subcontractor to an employee, or agent of a prime contractor.

(2) If the contractor fails to maintain and follow procedures designed to prevent or detect violations of paragraphs (a) through (c) of this clause and the contractor is convicted of any violation or any of the violations, then the government will disallow in the future any costs the contractor incurs because of such violation.

(3) Costs included under this clause, are allowable to the same extent as if spent afterward, unless such travel time has resulted in the termination of the contract.

(m) Travel.

(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 such case such travel be accomplished 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 the DOE, regardless of whether funds for such travel are contained in an approved budget. Foreign Travel is defined as any travel outside of the United States and its territories and possessions, Puerto Rico and Northern Mariana. 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 5311), and when such travel is being requested in connection with proposed sensitive foreign travel.

58. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) Segregated facilities, as used in this clause, may include, but are not limited to, waiting rooms, work areas, rest rooms, or nurseries, and are not within the scope of paragraph (a) of this clause. The Laboratory Procurement Representative may from time to time direct that the contractor either as the Laboratory Procurement Representative may from time to time direct that the contractor either as the Laboratory Procurement Representative.

(b) The contractor shall incorporate in the business clause in every subcontract or purchase order that is subject to the Equal Opportunity clause of this contract.

59. ACCESS TO AND OWNERSHIP OF RECORDS (JUL 2005)

(a) Laboratory-owned records. As provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract shall be the property of the Laboratory and shall be delivered to the Laboratory or otherwise disposed of by the contractor only as the Laboratory Procurement Representative may from time to time direct during the progress of the work or, in any event, as the Laboratory Procurement Representative shall direct upon completion or termination of the contract.

(b) Subcontracts and Consultants. The actual direct cost to the contractor of such subcontractor or consultant services as are expressly approved in writing by the authorized Laboratory Office Head, as provided in paragraph (a) of this clause, shall be deemed allowable if the contractor acquires or otherwise generates.

(c) 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 use or operated. The contractor agrees that any facilities which are inapplicable until such time as an amount equal to the total estimated cost set forth in the Schedule shall be applicable to the extent of funds available.

(d) Subcontractors will only be reimbursed for a travel expenditure over $25.00 that is supported by a receipt.

(e) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and

(4) Prime Contractor, as used in this clause, means a person who has entered into a prime contract with the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

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

(6) Subcontract, as used in this clause, means a contract or contractual relationship entered into by a prime contractor or Subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract or in connection with a subcontract relating to a prime contract.

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

(8) "Subcontractor Employee," as used in this clause, means any officer, partner, employee, or agent of a Subcontractor.


(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback;

(3) Involving, directly or indirectly, the amount of any kickback in the contract price charged by a subcontractor or prime contractor or in the contract price charged by a Subcontractor to a prime contractor or higher-tier Subcontractor.

(c) The contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in own operations and direct business relationships.

(d) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report, in writing, the possible violation. Such reports shall be made to the inspector general of the contracting agency, the inspector general of the agency if the agency does not have an inspector general, the inspector general, or the Department of Justice.

(e) The contractor shall cooperate fully with any Federal agency investigating any violation described in paragraph (b) of this clause.

(f) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract, and (ii) include any person who offers to furnish or furnish any supplies, materials, equipment, or services of any kind, trust, joint-stock company, or individual.
(e) Records retention standards. Special records retention standards, described at DOE Order 203.1B (Information Management Program) (version in effect on the date of the contract), are applicable for the classes of records described therein, whether or not the records are owned by the contractor or the subcontractor. In addition, the contractor shall retain, in the form of radiation exposure records generated in the performance of work under this contract until the Laboratory authorizes disposal. The Laboratory may waive application of these record retention schedules, upon request or consent of the contractor, if the laboratory is desirous of retaining the records evidenced by the Laboratory Procurement Representative. The contractor shall afford DOE proper access to such records in accordance with paragraph (d) of this clause to obtain copies and delivery of records described in paragraphs (c) and (d) of this clause.

(f) Subcontracts. The contractor shall include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors is present:

1. The dollar 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, in its judgment, a critical task related to the contract;
3. The subcontract includes 48 CFR 970.252-3, Integration of Environment, Safety, and Health into Work Planning and Execution, or similar clause.

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

a. Accounts. The Contractor shall maintain a separate and distinct set of accounts, records, 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 under this contract. The system of accounts employed by the Contractor shall be satisfactory to DOE and in accordance with generally accepted accounting principles and government accounting standards.

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 designee in accordance with the provisions of Clause, Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the Contractor shall afford DOE proper facilities for such inspection and audit.

c. Audit of subcontractors’ records. The Contractor also agrees, with respect to any subcontracts entered into for the purpose of or in connection with the work under this order, that, under the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, to either conduct an audit of the subcontractor’s costs or arrange for such audit to be performed by the Government, as the Government shall deem appropriate.

d. Disposal of records. Except as agreed upon by the Government and the Contractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the Contractor in connection with the work under this contract, other applicable credits, and fees under this contract, shall be the property of the Government, and shall be delivered to the Government or disposed of by the Contractor either in the manner of the final report of the Audit Officer, or in the manner of the Audit Officer during the period of retention provided for in paragraph (d) of this clause. DOE shall have the right to inspect and audit the bookkeeping and accounting records of the Contractor in accordance with the provisions of the Federal government accounting standards if any such bookkeeping and accounting records are maintained in any medium.

e. Reports. The Contractor shall furnish such progress reports and schedules, financial and cost reports, and other reports concerning the work 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 require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including firm fixed-price or unit-price subcontracts or purchase orders) of any tier entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

h. Comptrol General. 1. The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine the records of the contractor or subcontractor of the contractor directly engaged in the performance of all or any part of the work under this contract (with the exception of the information described in paragraph (l) and (m) hereof) if the contractor or subcontractor is debarred, suspended, or proposed for debarment for a violation of any applicable law or regulation. As used herein, “violation of any applicable law or regulation” means the status or condition of a debarment, suspension, or proposed debarment of the contractor or subcontractor, or any of its affiliated companies, or any of their representatives, agents, or officers, for a violation of any of the following laws or regulations, and any modification, extension, or addition to such laws or regulations:

(i) The United States Government’s zero tolerance policy described in paragraph (b) hereof.
(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, suspension, and removal from the annual internal audits.

j. Remedies. If at any time during contract performance, the Contractor determines that unallowable costs were claimed by the Contractor, or the cost of the Contractor's management controls suspect, or the Contractor's management systems that validate costs incurred and claimed suspect, the Contractor may, in his or her sole discretion, require the Contractor to cease using the special financial institution account in whole or with regard to specified accounts, requiring reimbursable costs to be claimed by periodic vouchers. In addition, the Contractor, Office, where he or she deems it necessary, may impose a penalty under 48 CFR 970.52-3, Penalties for Unallowable Costs; require a refund, reduce the contractor's otherwise earned fee, and take such other action as authorized in law, regulation, or contract.

61. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) The contractor shall comply with the requirements of “DOE Contractor Employee Protection Program” at 48 CFR part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or -leased sites.

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

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

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

(b) Defines the “Commercially Available Off-the-Shelf Item” herein, as used in this clause—

(i) Means any item of supply (including construction material or service) that is—

(ii) A commercial off-the-shelf item (as defined in FAR 2.101);

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

(iv) Offered to the Government, under a contract or subcontract at any tier, without modification to the extent of the Government’s interest in the commercial marketplace.

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

(d) The Government suspends or debar contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract in excess of $30,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(e) The Contractor shall require each subcontractor whose subcontract will exceed $30,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose in writing to the Contractor, in a form that has been proposed and agreed upon by the Federal Government—

(i) The name of the subcontractor;

(ii) The Contractor’s knowledge of the reasons for the subcontractor being in the Excluded Parties List System; and

(iii) The system and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the specific facts and circumstances.

(f) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall insert or have inserted the requirements of this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—

(i) Exceed $30,000 in value; and

(ii) Is not a subcontract for commercially available off-the-shelf items.

63. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

(i) “Coercion” means—

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

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of a legal process.

(ii) “Commercial sex act” means—

(1) The recruitment, harboring, transportation, provision, or obtaining of a person—

(2) By threats of serious harm to, or physical restraint against, that person or another person;

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

(iii) “Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person, by—

(1) By means of or through the use of force, fraud, or coercion, or in the case of a commercial sex act, by—

(2) By means of the abuse or threatened abuse of a legal process.

(iv) “Involuntary servitude” means—

(1) The use of force, fraud, or coercion, or in the case of a commercial sex act, by—

(2) The abuse or threatened abuse of a legal process.

(v) “Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

(vi) “Sexual servitude” includes a condition of servitude induced by means of—

(1) Sexual trafficking;

(2) Involuntary servitude;

(3) Debt bondage;

(4) Slavery.

(b) Policy. The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall—

(i) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(ii) Procure commercial sex acts during the period of performance of the contract; or

(iii) Use forced labor in the performance of the contract.

(c) Contractor requirements. The Contractor shall—

(i) Identify all—

(1) The United States Government’s zero tolerance policy described in paragraph (b) hereof.

(ii) The provisions of this clause (including this paragraph (c));

(iii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, suspension, and removal from the annual internal audits.

(d) Take appropriate action, up to and including termination, against employees or subcontractor employees of the Contractor who violate any of the provisions of this clause.
RESEARCH MISCONDUCT (JUL 2005)

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

(b) Unless otherwise instructed by the Laboratory Procurement Office (LPO), the contractor must conduct an initial inquiry into any allegations of research misconduct. If the contractor determines that there is sufficient evidence to proceed to an investigation, it must notify the contracting officer and, unless otherwise instructed, the contractor must:

(1) Conduct an investigation to develop a complete factual record and an examination of the record leading to either a finding of research misconduct and an identification of appropriate remedies or a determination that no action is warranted. In some cases, the contractor may decide that the investigation is not needed.

(2) If the contractor determines that the investigation is needed, the contractor must conduct an initial inquiry into any allegations of research misconduct. If the contractor determines that there is sufficient evidence to proceed to an investigation, it must notify the contracting officer and, unless otherwise instructed, the contractor must:

(a) Provide the contracting officer with a description of the allegation and any subsequent adjudication. When an investigation is complete, the contractor will forward to the contracting officer a copy of the evidentiary record, the investigative report, any recommendations made to the contractor's adjudicating official, the adjudicating official's decision and notification of any corrective action taken or planned, and any follow-up action taken.

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

(i) The contractor's investigation is not prepared to handle the allegation in a manner consistent with this clause.

(ii) The contractor inquires an entity of sufficiently small size that it cannot reasonably conduct the inquiry.

(iii) Laboratory involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the Laboratory, its employees, or any others.

(iv) The investigation involves possible criminal misconduct.

(v) The contractor fails to initiate an investigation within 90 days of receiving a written or oral report of such allegations.

(vi) The contractor fails to initiate a formal investigation within 180 days of receipt of an initial report of such allegations.

(c) The laboratory, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:

(1) Safeguards for information and subjects of allegations. The contractor shall provide safeguards to ensure that individuals may bring allegations of research misconduct made in good faith to the contractor without suffering retaliation or other harm. Safeguards include: protection against retaliation; fair and objective procedures for examining and resolving allegations; and due process in protecting positions and reputations. The contractor shall not consider the identity of the subject of an allegation as evidence that the contractor should sanction that subject. The contractor shall not deliberate about a complaint or investigation unless it is sustained by evidence from the complaint or investigation.

(2) Confidentiality and Privacy. The contractor shall maintain all records, including any personal information, in confidence to the extent permitted by law, and shall protect the identity of the subjects of allegations and informants as consistent with this clause.

(3) Remedies. In addition to other remedies available to the Government, the contractor's failure to conduct an initial inquiry into any allegation of research misconduct, if the LPO finds that:

(i) There is sufficient evidence to proceed to an investigation, it must notify the contracting officer and, unless otherwise instructed, the contractor must:

(a) Provide the contracting officer with a description of the allegation and any evidence submitted to support the allegation or developed in response to the request for additional information.

(b) The laboratory, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:

(i) The contractor must provide the Laboratory with a copy of all documents and evidence submitted to support the allegations, including all source documents, including any personal information.

(ii) The contractor must not possess or maintain any personal information collected or developed in response to the request for additional information.

(iii) The contractor must not disclose any such information except as authorized by the Laboratory.

(iv) The contractor shall not disclose any such information except as authorized by the Laboratory.

(v) The contractor shall not use any such information except as authorized by the Laboratory.

(vi) The contractor shall not disclose any such information except as authorized by the Laboratory.

(vii) The contractor shall not disclose any such information except as authorized by the Laboratory.

(viii) The contractor shall not disclose any such information except as authorized by the Laboratory.

(ix) The contractor shall not disclose any such information except as authorized by the Laboratory.

(x) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xi) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xii) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xiii) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xiv) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xv) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xvi) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xvii) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xviii) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xix) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xx) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxV) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVI) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxVIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIX) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxl) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIII) The contractor shall not disclose any such information except as authorized by the Laboratory.

(xxIV) The contractor shall not disclose any such information except as authorized by the Laboratory.
69. ENVIRONMENTAL PROTECTION (AUG 2001)

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

70. 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.

71. 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 automobile liability coverage for property damage and bodily injury and such insurance shall be primary.

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

(a) Definitions. As used in this clause—

"Driving"—

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

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

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

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009.

(c) The Contractor is encouraged to—

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

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

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

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

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

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

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

73. 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 other understandings or agreements other than those incorporated into this contract.

74. TECHNICAL STANDARDS PROGRAM (FEB 2011)

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

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

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

   (b) 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.

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

   (d) 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). [see Form DOE F 1300.2 (05/2010)].

   (e) Flow down this requirement to subcontractor(s) at any tier to the extent necessary to ensure the contractor’s compliance with these requirements.

75. SUSPECT COUNTERFEIT PARTS (DEC 2007)

Notwithstanding any other provisions of this agreement, the contractor warrants that all items provided to the Laboratory shall be genuine, new and unused unless otherwise specified in writing by the Laboratory. Contractor further warrants that all items used by the contractor during the performance of work at the Argonne National Laboratory include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the contractor shall indemnify the Laboratory, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product failures.

Types of material, parts, and components known to have been misrepresented include (but are not limited to) fasteners; hoisting, rigging, and lifting equipment; cranes; hoists; valves; pipe and fittings; electrical equipment and devices; plate, bar, shapes, channel members, and other heat treated materials and structural items; welding rod and electrodes; and computer memory modules. The contractor’s warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Laboratory. In addition, because falsification of information or documentation may constitute criminal conduct, the Laboratory may reject and retain such information or items, at no cost, and idenify,segretate, and report such information or activities to cognizant Department of Energy officials.
# SUSPECT/COUNTERFEIT PART

## HEADMARK LIST

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

- Grade 5
- Grade 8

### GRADE 5 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

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

### GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Asahi Mfg. (JP)</td>
<td>KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
<tr>
<td>NF</td>
<td>Nippon Fasteners (JP)</td>
<td>RT</td>
<td>Takai Ltd (JP)</td>
</tr>
<tr>
<td>H</td>
<td>Hinomoto Metal (JP)</td>
<td>FM</td>
<td>Fastener Co of Japan (JP)</td>
</tr>
<tr>
<td>M</td>
<td>Minamida Siyobo (JP)</td>
<td>KY</td>
<td>Kyoei Mfg (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
<td>J</td>
<td>Jinn Her (TW)</td>
</tr>
</tbody>
</table>

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

### GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:

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

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

<table>
<thead>
<tr>
<th>Type 1</th>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A325 KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type 2</th>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A325 KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Type 3</th>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A325 KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
</tbody>
</table>

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)