# Appendix A

**Argonne Terms and Conditions**  
(For Fixed-Price Construction Contracts)

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1. NOTICE TO PROCEED (OCT 1999)

This contract is designated as high risk. The contractor shall not commence work under this contract unless and until the contractor receives a notice to proceed issued by the Procurement Representative.

2. DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

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

(b) Definition. “Bona fide employee,” as used in this clause, means a person, employed by a contractor and itself out as being able to obtain any Government contract or contracts through improper influence, nor proposes to exert improper influence to solicit or obtain Government contracts nor holds himself as being able to obtain any Government contract or contracts through improper influence.

(c) The Contractor shall furnish to the contracting agency all information required by the Department of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, in accordance with the requirements of this clause.

(d) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall be submitted to the contracting officer no later than 30 days after the close of each fiscal year. The report shall cover all employees who were not recruited within the United States.

(e) The Contractor shall submit VETS-100A Reports no later than September 30 of each year. The reports must be based on data known to the contractor when completing the VETS-100A.

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-1.5). The contract may be canceled under 41 CFR 60-1.5.

3. COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local of the EQUAL Opportunity Commission for the necessary forms.

4. EQUAL OPPORTUNITY (MAR 2007)

(a) Definition. “United States,” as used in this clause, means the 50 States, the District of Columbia, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded any contract Federal contracts and/or subcontracts that have an aggregate value in excess of $100,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(c) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publically announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

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

(e) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that any applications will be received consideration for employment without regard to race, color, religion, sex, or national origin. This shall include, but not be limited to—

(i) Employment;

(ii) Upgrading;

(iii) Definition;

(iv) Transfer;

(v) Recruitment or advertising;

(vi) Layoff or recall rights;

(vii) Rates of pay or other forms of compensation; and

(viii) Selection for training, apprenticeship, or any other form of on-the-job training.

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

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

5. EMPLOYMENT REPORTS VETERANS (SEPT 2010)

(a) Definitions. As used in this clause, “Armed Forces service medal veteran” means any veteran who served on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12895 (61 FR 20999), “Disabled veteran” means—

(i) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or both who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs; or

(ii) A person who was discharged or released from active duty because of a service-connected disability.

(b) “Executive and senior management” means—

(i) Comprised on a salary basis at a rate of not less than $455 per week ($380 per week, if employed in American Samoa by employers other than the Federal Government, exclusive of board, lodging or other facilities;)

(ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(iii) Who customarily and regularly directs the work of two or more other employees;

(iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion of employees are given particular weight; or

(v) Any employee at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.
Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more. 

Postings.

Applicability. This clause does not apply to the listing of employment openings that occur and are performed, but excluding those of independently operated corporate affiliates, at an establishment of the Contractor other than the one where the contract is being performed, or by, for the Contractor, a person in a wheelchair). 

Debarment of the contractor.

General.

The Contractor shall not discriminate against any employee or applicant for employment because the individual is a disabled veteran, recently separated veteran, other protected veteran, or Armed Forces service medal veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified individuals, including qualified disabled veterans, without discrimination based upon their status as a disabled veteran, recently separated veteran, Armed Forces service medal veteran, and other protected veteran in all employment practices including the following:

1. Recruitment, advertising, and job application procedures.
2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.
3. Rate of pay or any other form of compensation and changes in compensation.
4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.
5. Leaves of absence, sick leave, or any other leave.
6. Fringe benefits available by virtue of employment, whether or not administered by the Contractor.
7. Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3671, professional meetings, conferences, and other related activities, and selection for performance appraisals.
8. Activities sponsored by the Contractor including social or recreational programs.
9. In any other form, conditions, or restrictions on the Contractor's employment practices.

(1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate employment service delivery system. 

(2) The Contractor shall make the listing of employment openings with the appropriate employment service delivery system at least concurrently with any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including selecting sources or recruitment services, among others. 

(3) The Contractor shall take such action with respect to any such subcontract as may be required by the Department of Labor for violations of this clause (2222.35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-2.35, Equal Opportunity for Veterans). These sanctions (see 41 CFR 60-300.66) may include—

(a) Federal contractors and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector. See 29 CFR Part 471. The notice, prescribed in the Department of Labor’s regulations, informs employees of Federal contractors and subcontractors of their rights to organize and bargain collectively with their employers and to engage in other related activities, and selection for performance appraisals. 

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor’s facilities, of their employers, and in a format that is readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) When the Contractor elects to electronically post the notice, the Contractor shall post the notice electronically by displaying prominently, on a Web site that is maintained by the Contractor, the notice prescribed in 29 CFR Part 471. The notice, prescribed in the Department of Labor’s regulations, informs employees of Federal contractors and subcontractors of their rights to organize and bargain collectively with their employers and to engage in other related activities, and selection for performance appraisals. 

(3) The Contractor shall list the required notice electronically on any Web site that is maintained by the Contractor and is customarily used for recruitment, hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.

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

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

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

(7) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.4 and (b) of this clause, this contract may be terminated or suspended in whole or in part, and the Contractor may be suspended or debarred in accordance with 38 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 14394.9, subpart 8.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

Subcontracts.

The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that is part of the contract for which the Contractor has obligated the subcontractor (including any subcontractor (including any subcontractor for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or (c) is a commercial item; or (d) is a commercial item; or (e) is a commercial item; or (f) is a commercial item; or (g) is a commercial item; or (h) is a commercial item; or (i) is a commercial item; or (j) is a commercial item; or (k) is a commercial item; or (l) is a commercial item; or (m) is a commercial item; or (n) is a commercial item; or (o) is a commercial item; or (p) is a commercial item; or (q) is a commercial item; or (r) is a commercial item; or (s) is a commercial item; or (t) is a commercial item; or (u) is a commercial item; or (v) is a commercial item; or (w) is a commercial item; or (x) is a commercial item; or (y) is a commercial item; or (z) is a commercial item. 

(2) The Contractor shall not procure supplies or services in a way designed to avoid the imposition of sanctions for noncompliance.

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

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

Employment Eligibility Verification (I-9)

Employment Eligibility Verification (I-9)
g. Definition of Special Nuclear Material. The term "special nuclear material" means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material 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, but except special nuclear material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

h. Access authorizations of personnel.

1. The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.

2. The Contractor must conduct a thorough review, as defined at 48 CFR 14.04.01, of an uncleared applicant or uncleared employee prior to inserting an access authorization or prior to inserting an access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR 709, the Contractor or subcontractor must insert terms that conform substantially to the DOE's regulations and the DOE facility clearance or submit a completed SF 328, Certificate Pertaining to Foreign Interests, as required by DFARS 204.306-7. The Contractor or subcontractor must insert terms that conform substantially to the DOE's regulations and the DOE facility clearance or submit a completed SF 328, Certificate Pertaining to Foreign Interests, as required by DFARS 204.306-7. The Contractor or subcontractor must insert terms that conform substantially to the DOE's regulations and the DOE facility clearance or submit a completed SF 328, Certificate Pertaining to Foreign Interests, as required by DFARS 204.306-7.

3. An annual reinvestigation, a reinvestigation of any changes in ownership or control which is not covered by paragraph (c)(3) or (d)(8) of this clause, or any other written, oral, or electronic notice of any unauthorized access to classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.

The Contractor shall not place that individual in such a position prior to the clearance and evaluation. All employees who have access to classified information or special nuclear material (in categories requiring access authorization) shall be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 70.7. All employees possessing access to classified information or special nuclear material (in categories requiring access authorization) shall be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 70.7. When completed the Contractor must and in one copy of the SF 328 and submit it to the Contracting Officer.

The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Standard Form SF 328. Certification, governing the processing and privacy of an individual's information, includes, but is not limited to, the Contractor's Derivative Classifiers. Other personnel (Government or contractor) may serve as Derivative Classifiers who maintain classified information is reviewed by either a Federal Government or a contractor Derivative Classifier in accordance with classification regulations, mandatory DOE directives and classified/declassification guidance furnished to the contractor by the Department of Energy to determine whether or not the information is classified.

The Contractor shall not place that individual in such a position prior to the clearance and evaluation. All employees who have access to classified information or special nuclear material (in categories requiring access authorization) shall be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 70.7. All employees possessing access to classified information or special nuclear material (in categories requiring access authorization) shall be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 70.7.
15. ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

(a) Definition. As used in this clause—

(1) “Energy-efficient product” means that:

(A) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or
(B) Is in the upper 25 percent of efficiency for all similar products as designated by the principal federal energy management program.

(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 and services:

(1) Delivered;
(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;
(3) Furnished by the Contractor for use by the Government;
(4) Included in the design of a building or incorporated during its construction, renovation, or maintenance.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in section 313(b)(1) of EPCRA, the Contractor shall:

(1) Furnish a copy of the exemption certification to the Contracting Officer;
(2) Include in any resultant subcontract exceeding $100,000 (including all options), the toxic chemical release filing and reporting requirements.

(d) If the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements, the contractor shall:

(1) Notify the Contractor of the failure in writing and require the Contractor to continue to file the annual Form R for the life of the contract for such facility.
(2) Continue to file the annual Form R for the life of the contract for such facility.

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase order under this contract that may involve international transportation.

16. 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(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 3001 et seq.) and the Toxic Prevention Prevention Act of 1988 (42 U.S.C. 11316). 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) A Contractor, owner, or operator of a facility in the performance of this contract is exempt from the requirement to file an annual Form R if—

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65.
(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11323(b)(1)(A).
(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(b) of EPCRA, 42 U.S.C. 11323(b) (including the alternate thresholds at 40 CFR 372.27, 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 sectors:
   (i) Major group code 10 (except 1011, 1081, and 1094).
   (ii) Major group code 12 (except 1241).
   (iii) Major group code 20 through 39.
   (iv) Industry code 4911, 4931, or 4939 (limited to facilities that combat coal and/or oil for the purpose of generating power for distribution in commerce).
   (v) Industry code 4935 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), or 5169, 5171, 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or the like) or
(5) The facility is not located in the United States or its outlying areas.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (a) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt or adversely affect:

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

(i) Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible, and
(ii) Continue to file the annual Form R for the life of the contract for such facility.

(d) The Laboratory Procurement Representative may terminate this contract or take other action as appropriate if the Contractor is not in compliance with both the EPCRA and the Toxic Prevention Prevention Act of 1988 toxic chemical release filing and reporting requirements.

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

(1) For competitive subcontracts of $500,000 (including cost plus options), include a solicitation provision substantially the same as the provision at FAR 52.223-12, but limited to the supplies being transported, to the extent that service by those carriers is available. It requires the Contractor to provide the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation to U.S. Government agencies, to award the contract to the lowest responsible bidder, unless the bidder is able to show that the domestic air carrier is not capable of providing service.
(2) Include in any resultant subcontract exceeding $100,000 (including all options), the substance of this clause, except this paragraph (e).

17. 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 services required by this contract, of:

(1) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1946, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of the contract;
(2) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries.

*Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and address of the radioactive material, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 0930-0207).

(b) The Laboratory Procurement Representative shall insert the number of days required in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause. Any such request shall—

(1) Be submitted in writing;
(2) State the quantity of activity, characteristics, and composition of the radioactive material that have not changed, and
(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the applicant or used by the applicant shall be clearly labeled as required by the latest revision of MIL-STD-129 in effect on the date of the contract.

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

Definitions. As used in this clause—

(a) 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.

(b) United States means the 50 States, the District of Columbia, and all territories.

(c) Contingency operations means military operations in which the Commander, Commandant, or Service Secretary has identified the need for one or more contingency forces.

(d) The contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.


(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. App. 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 the cargo, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo lines, and tankers).

(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 lines, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, 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 signed on-board ocean bill of lading for each shipment covered—

(1) The Authorized Laboratory Procurement Official, and
(2) The Office of Cargo Preference—Maritime Administration (MAR-590) 400 Seventh Street, SW Washington DC 20590

Subcontractor bils of lading shall be submitted through the prime contractor.

(d) The contractor shall furnish these bills of lading copies (i) within 20 working days of the date of loading for shipments originating outside the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.
(B) Name of vessel.
(C) Vessel flag of registry.
(D) Date of loading.
(E) Port of loading.
(F) Port of final discharge.
(G) Description of commodity.
(H) Gross weight in pounds and cubic feet, if available.
(I) Total ocean freight revenue in U.S. dollars.

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

(1) Cargo vessels carried in vessels of the Panama Canal Commission or as required by or authorized by treaty.
(2) Ocean transportation between foreign countries of supplies purchased with foreign currency, unless specifically requested or derived 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-U.S. Government vessels.
(4) Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) The contract contains—

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

(ii) The contract contains—

(A) Items the contractor is reselling or distributing to the Government without adding value. (Generally, the contractor does not add value to the items which the contractor subcontracts items for (U.S. destination shipment); or
(B) Shipped in direct support of U.S. military—

(1) Subcontracts for emergency operations; or
(2) Exercises; or

(3) The contractor shall submit one legible copy of a signed on-board ocean bill of lading for each shipment covered, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).
21. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)

This clause does not apply to small business concerns.

- A. Definition clause stated in this clause.
  - "Indian tribe" means any Indian tribe, tribe, band, group, pueblo, or community, including native villages and native groups, organized and operated by an Indian tribe, nation or tribe as defined in the Indian Tribes Act (Title 25 U.S.C. 1621), and includes any Indian tribe that has not been certified by the Small Business Administration as an Indian tribe.
  - "Indian tribe" also means any agreement between the Federal Government or its instrumentality and any Indian tribe, nation or tribe to perform services for the Federal Government, the ANC, or the Indian tribe.

- B. A description of the method used to identify potential sources for solicitation purposes and a description of the source list(s) used to identify potential sources.
- C. Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not.
- D. Whether HUBZone small business concerns were solicited and, if not, why not.
- E. Whether small disadvantaged business concerns were solicited and, if not, why not.
- F. Whether women-owned small business concerns were solicited and, if not, why not.
- G. If applicable, the reason award was not made to a small business concern.
- H. The use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

- I. Records of any outreach efforts to contact –
  - a. Business development organizations;
  - b. Trade associations;
  - c. The offeror's official responsible for acknowledging receipt of or rejecting the ISRs; and
  - d. The offeror's official responsible for providing information about the ISRs to the ANC or Indian tribe.

- J. A statement of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including –
  - a. Outreach, assistance, counseling, or publicizing subcontracting opportunities.
  - b. The Federal Acquisition Regulation in section 2.101 of the Federal Acquisition Regulation.

- K. A description of the method used to determine the proportionate share of indirect costs to be incurred by –
  - a. Small business concerns (including ANCs and Indian tribes);
  - b. Veteran-owned small business concerns;
  - c. Service-disabled veteran-owned small business concerns;
  - d. HUBZone small business concerns;
  - e. Small disadvantaged business concerns;
  - f. Women-owned small business concerns.

- L. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred by –
  - a. Small business concerns (including ANCs and Indian tribes);
  - b. Veteran-owned small business concerns;
  - c. Service-disabled veteran-owned small business concerns;
  - d. HUBZone small business concerns;
  - e. Small disadvantaged business concerns;
  - f. Women-owned small business concerns.

- M. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred by –
  - a. Small business concerns (including ANCs and Indian tribes);
  - b. Veteran-owned small business concerns;
  - c. Service-disabled veteran-owned small business concerns;
  - d. HUBZone small business concerns;
  - e. Small disadvantaged business concerns;
  - f. Women-owned small business concerns.

- N. A description of the method used to identify potential sources for solicitation purposes.

- O. A description of the method used to identify potential sources for solicitation purposes.

- P. A description of the method used to identify potential sources for solicitation purposes.

- Q. A description of the method used to identify potential sources for solicitation purposes.

- R. A description of the method used to identify potential sources for solicitation purposes.

- S. A description of the method used to identify potential sources for solicitation purposes.

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- W. A description of the method used to identify potential sources for solicitation purposes.

- X. A description of the method used to identify potential sources for solicitation purposes.

- Y. A description of the method used to identify potential sources for solicitation purposes.

- Z. A description of the method used to identify potential sources for solicitation purposes.

- A. A description of the method used to identify potential sources for solicitation purposes.

- B. A description of the method used to identify potential sources for solicitation purposes.

- C. A description of the method used to identify potential sources for solicitation purposes.

- D. A description of the method used to identify potential sources for solicitation purposes.

- E. A description of the method used to identify potential sources for solicitation purposes.

- F. A description of the method used to identify potential sources for solicitation purposes.

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- X. A description of the method used to identify potential sources for solicitation purposes.

- Y. A description of the method used to identify potential sources for solicitation purposes.

- Z. A description of the method used to identify potential sources for solicitation purposes.
In order to effectively implement this plan to the extent consistent with efficient contract performance—

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 shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and supplies for major systems. It is further the policy of the United States that its policies and procedures establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small businesses or, when awarded to veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns—

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 prime contract shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by the Contracting Officer.

A. In the case of the prime Contractor, with the Contracting Officer; and

B. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

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

A. No small business concern shall have more than one plan. If a small business concern has more than one plan, the offeror agrees to carry out this policy in the awarding of subcontracts to the extent consistent with efficient contract performance.

B. The report shall include all subcontract awards under the commercial plan, the dollar value of which is attributable to the subcontractor.

C. If a Contractor has a commercial plan and is performing work for more than one Federal agency, the Contractor shall provide the percentage of dollars attributable to each agency from which contracts for subcontracts were awarded.

D. The authority to acknowledge or reject SSRs for commercial plans will be reviewed by the Small Business Administration for small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when an SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan that is to be included as part of, or all of, a goal contained in the master plan, the report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

E. Reports submitted under a commercial plan shall be required to be submitted within thirty days after the end of the Contractor’s fiscal year.

F. The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the extent consistent with efficient contract performance.

G. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

H. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

I. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

J. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

K. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

L. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

M. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

N. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

O. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

P. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

Q. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

R. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

S. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

T. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

U. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

V. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

W. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

X. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

Y. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.

Z. The report shall be submitted within thirty days after the end of the Contractor’s fiscal year.
(a) 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 at FAR 15.403-4, 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 price or the date of award, whichever is later.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 52.215-13, Subcontractor Certified Cost or Pricing Data—Modifications.

(c) In each subcontract that exceeds 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 15.406, 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 non-fixed data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

(d) If any reduction in the contract price under this clause reduces the price of items for which a noncurrent cost or pricing data was used, the Contractor agrees not to raise the following matters as a defense:

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

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

(e) The Contractor or subcontractor shall not be held liable to the Government for any overpayment to be computed from the date(s) of overpayment to the Contractor to the extent such overpayment was the result of the Government’s failure to make accelerated payments to small business subcontractors to the maximum extent provided in FAR 52.215-13, Subcontractor Certified Cost or Pricing Data—Modifications.
30. PRICE REDUCTION FOR DEFECTIVE CERTIFICATES OF 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 41.202-1, except that this clause does not apply to any modification if an exception under FAR 41.202-7 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, is a cost reimbursable under a cost reimbursable contract, such price shall be 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 Certification of Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor’s Certification of Costs or Pricing Data, (3) the parties furnished data that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any work 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, plus any associated portion of any markup, by which (1) the proposed subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual cost of the contract price was not itself affected by defective certified cost or pricing data.

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

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

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

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

4. The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(e) If the offset is not prohibited by paragraph (d)(1) or (d)(3) 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—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor’s knowledge and belief, the Contractor is entitled to the offset in the amount of the offset.

(B) The Contractor proves that the certified or pricing data were available before the “as of” date specified on its Certificate of Current Cost or Pricing Data, or that the data were not submitted before such date.

(f) An offset shall not be allowed if—

(A) The undersigned data were known by the Contractor to be understated 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 have been lower in the absence of the understated data even if the average data had been submitted before the “as of” date specified on its Certificate of Current Cost or Pricing Data.

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

1. Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the dates of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

2. 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.

31. SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (OCT 1999)

(a) The contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Laboratory access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between the drawings, or in the specifications, the matter shall be promptly submitted to the Laboratory, whose decision shall be of like effect as if shown or mentioned in both. In case of difference between drawings or specifications added after the date of issue, the Laboratory shall determine the effect of such a determination shall be at its own risk and expense. The Laboratory shall furnish from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(b) If shop drawings show variations from the contract requirements, the contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Laboratory approves any such variation, the Laboratory shall issue an appropriate contract modification. Except that if the variation is minor, is in line of price or in time of performance, a modification need not be issued.

(c) The contractor shall submit to the Laboratory four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Laboratory and one set will be returned to the contractor. Upon completing the work under this contract, the contractor shall furnish a complete set of reproductions of all shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the equipment is completed and accepted.

(d) This clause shall be included in all subcontracts at any tier.

32. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (OCT 1999)

(a) The contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to (A) the potential bearing capacity, subsurface condition, disposition, and stability of ground; (B) the availability of labor, water, electric power, and roads; (C) uncertainties of weather, river stages, tides, or subsidence of the ground; and (D) the character and equipment and facilities needed to preliminary to and during work performance. The contractor also acknowledges that it has satisfied itself as to the quality, quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Laboratory, as well as from the drawings and specifications made a part of this contract. Any failure of the contractor to take the actions described and acknowledged in this paragraph will not relieve the contractor from responsibility for estimating the cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Laboratory assumes no responsibility for any conclusions or interpretations made by the contractor based on the information made available by the Laboratory. Nor does the Laboratory assume responsibility or an offset for work or materials not directly related to work or materials considered necessary to bring the character of the data to the attention of the contractor.

33. DIFFERING SITE CONDITIONS (OCT 1999)

(a) The contract shall promptly, and before the conditions are disturbed, give a written notice to the Laboratory of (1) all new physical conditions at the site which differ materially from those indicated in this contract, or (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in the work of the character provided for in the contract.

(b) The Laboratory shall investigate the site conditions promptly after receiving the notice. If the contractor certified data or materials were found to affect an increase or decrease in the contractor’s cost, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the contractor for an equitable adjustment to the contract under this clause shall be effective unless the contractor has given written notice of the basis for the claim to the Laboratory. No request by the contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

34. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) “Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms, and wash rooms designed or constructed to be used only by blacks, Filipinos, Chinese, and other non-white employees, or any other single-user rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities or any other establish, 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 maintained. The contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

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

35. CHANGES (JUNE 2007)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order, designate or indicated to be a change order, make changes in the work within the scope of the contract, including changes—

1. In the specifications (including drawings and designs),

2. In the method of performance, if not otherwise provided in the contract,

3. In the Government-furnished property or services; or

4. In any written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change to be made as a result of the Contractor’s performance of its duties.

(b) Any written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change to be made as a result of the Contractor’s performance of its duties shall be treated as a change order under this clause; Provided, that the Contractor gives the Contracting Officer written notice stating—

1. The date, circumstances, and source of the order; and

2. That the Contractor considers the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change order, except with respect to variations described and approved under this clause to an equitable adjustment.

(d) If any request for equitable adjustment under this clause causes an increase or decrease in the Contractor’s cost of, or if the time required for, the performance of any part of the work under this contract, whether or not changed by such request, the Contractor shall give the Contracting Officer written notice stating—

1. The date, circumstances, and source of the order; and

2. That the Contractor considers the order as a change order.

(e) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as an order, except with respect to variations described and approved under this clause to an equitable adjustment.
36. SUPERINTENDENCE BY THE CONTRACTOR (OCT 1999)

At all times during performance of this contract and until the work is completed and accepted, the contractor shall directly superintend the work or assign and have on the work a competent superintendent who is satisfactory to the Laboratory and has authority to act for the contractor.

37. MATERIAL AND WORKMANSHIP (MAR 2003)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided for in this contract. To the maximum extent practicable the contractor shall use recycled products in the performance of this contract. The EPA Comprehensive Procurement Guideline(s) identifies products that are recycled material pursuant to 40 CFR 2.4.

(b) The contractor shall furnish full information concerning the materials and workmanship of equipment and shall not be construed as limiting competition. The contractor may, at its option, use equipment, materials, and processes, that is in the judgment of the Laboratory, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Laboratory may, in writing, that the contractor remove from the work any employee the Laboratory deems incompetent, careless, or otherwise objectionable.

38. PAYMENTS (FEB 2004)

(a) The contractor shall pay the contractor the contract price as provided in this contract.

(b) The contractor shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Laboratory, to the extent the work has been completed and accepted by the Laboratory.

(c) Progress payments will be made on the basis of estimates the Laboratory may authorize material delivered on the site and preparatory work done as determined by the Laboratory. The contractor shall take steps necessary to improve its progress, including those required to increase the number of shifts, to employ additional labor and equipment, and to accelerate the work.

(d) The contractor shall promptly furnish, without additional charge, all facility, labor, and materials reasonably needed for performing such safe and convenient inspections and tests as may be required by the Laboratory. The contractor shall provide all inspectors and technicians with appropriate training before they proceed with the work.

(e) The contractor shall promptly furnish, without additional charge, all facility, labor, and materials reasonably needed for performing such safe and convenient inspections and tests as may be required by the Laboratory. The contractor shall provide all inspectors and technicians with appropriate training before they proceed with the work.

(f) The contractor shall, without charge, replace or correct work found by the Laboratory not to conform to the work order or to contract requirements.

(g) If the contractor does not promptly replace or correct rejected work, the Laboratory may (1) by written notice, require the contractor to remove it from the work and (2) by written notice, require the contractor to replace it with work that is acceptable.

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

39. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, or if the contractor agrees to the appointment of a receiver or trustee or to the involuntary bankruptcy of the Laboratory, the contractor will notify the Laboratory in writing. The Laboratory's decision shall be final as to the validity of the contractor's bankruptcy claim.

40. INSPECTION OF CONSTRUCTION (OCT 1999)

(a) All materials, equipment, and work shall be subject to Laboratory inspection and test at all reasonable times before acceptance.

(b) The contractor shall obtain the Laboratory's approval of the machinery and mechanical and electrical and other equipment to be incorporated into the work. When requesting approval, the contractor shall furnish to the Laboratory the name of the manufacturer, the model number and other information concerning the performance of laboratory equipment, capacity, power, and test data.

(c) The contractor shall maintain an adequate inspection system and perform such inspections as may be required by the Laboratory. The laboratory may require, in writing, that the contractor remove from the work any employee the Laboratory deems incompetent, careless, or otherwise objectionable.

41. SCHEDULES FOR CONSTRUCTION CONTRACTS (OCT 1999)

(a) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(b) The contractor shall, at the time of submittal of the practicable schedule, include a practicable after completion and inspection, all work required by the contract or that portion of the work which Laboratory determines can be accepted separately. Acceptance shall be final only if the contractor or subcontractor have not made or been held liable for any deficiency or nonconformity of the work.

(c) The contractor shall, upon request, provide a copy of the practicable schedule for the purpose of demonstrating adherence to the schedule.

(d) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(e) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(f) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(g) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(h) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(i) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(j) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(k) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).

(l) The contractor shall, within ten days after the work commences on the contract or another period of time determined by the Laboratory, prepare and submit to the Laboratory for approval three copies of a practicable schedule showing the order in which the contractor proposes to perform the work, and the dates on which the contractor contemplates starting and completing the various features of the work (including acquiring materials, plant, and equipment).
PERMITS AND RESPONSIBILITIES (OCT 1999)

The contractor shall, without additional expense to the Laboratory, be responsible for obtaining any necessary licenses, permits, and for complying with federal, state, local, and municipal codes, and regulations applicable to the performance of the work. The contractor shall also be responsible to local officials or to persons or property on the work of the contractor. The contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

USE AND POSSESSION PRIOR TO COMPLETION (OCT 1999)

(a) The Laboratory shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Laboratory shall furnish the contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Laboratory has taken possession of or use of the contractor shall be relieved of the responsibility for the loss or damage to the work and/or property caused by the contractor's negligence, and shall take proper safety and health precautions to protect the work, the workers, the public, and the property of others. The contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(b) While the Laboratory has such possession or use, the contractor shall be relieved of the responsibility for the loss or damage to the work and/or property caused by the contractor's negligence, and/or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Laboratory delays the progress of the work, or causes additional expense to the contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

ENVIRONMENT, SAFETY AND HEALTH (FEB 2007)

The contractor shall take all reasonable precautions in the performance of the work under this contract to protect the safety and health of Argonne, DOE, and contractor employees and of members of the public and to protect the environment. This includes compliance with all the applicable codes, and regulations applicable to the performance of the work. The contractor shall also be responsible to local officials or to persons or property on the work of the contractor. The contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

PERMITS AND RESPONSIBILITIES (OCT 1999)

The Laboratory Procurement Official, the Laboratory Construction Management, Project Manager, the Laboratory Environmental Health and Safety (EH&S) Representative, and the Director, Energy Resources, Argonne Site Office, shall be the implementation of the contractor's ES&H program on the Laboratory site. Contractors shall designate and identify a competent member of their organization whose duty shall be the implementation of the contractor's ES&H program on the Laboratory site. The contractor shall implement and maintain an ES&H program that is consistent with the applicable ES&H requirements and regulations. The contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

B. Contractor Environment, Safety and Health (ES&H) Program and Implementation Plan

1. Equipment inspection documentation required by 29 CFR 1926, Subpart N, must be submitted and approved prior to the revised work scope taking place. The contractor shall implement and maintain an ES&H program that is consistent with the applicable ES&H requirements and regulations. The contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

2. Specific procedures in the areas of fall protection, excavation, trenching, confined space, asbestos, electrical work, and maintenance and repair of equipment and facilities shall be the implementation of the contractor's ES&H program on the Laboratory site. Contractors shall designate and identify a competent member of their organization whose duty shall be the implementation of the contractor's ES&H program on the Laboratory site. The contractor shall implement and maintain an ES&H program that is consistent with the applicable ES&H requirements and regulations. The contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

3. Material Safety Data Sheets (MSDSs) must be maintained by the contractor at the job site. MSDSs for all products and materials brought on site shall be posted on the contractor's bulletin board:

- The frequency of regular safety inspections to be conducted by the contractor shall be at least 10 per month.
- The schedule of weekly tool box meetings to be held with contractor employees shall be provided in the construction job safety analysis.
- The locations at which the "Worker Protection for DOE Contractor Employees" manual shall be posted on the contractor's bulletin board.
- Implementation of all ES&H requirements listed in the contract, including the specifications:
  - Employment injury and illness experience of 29 CFR 1929.22, Subpart N, as specified in the safety and health standards.
  - Health and Safety Data Sheets (MSDS) shall be provided for all hazardous materials brought on site.
  - The adequacy of the contractor's safety and health program shall be reviewed by the Laboratory on a regular basis.

C. Job Environmental Protection Planning

To the extent required by the project specifications, a sedimentation and erosion control plan and a storm water pollution prevention plan shall be submitted prior to the revised work scope taking place. The contractor shall implement and maintain an ES&H program that is consistent with the applicable ES&H requirements and regulations. The contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

D. Contractor ES&H Representative

The contractor ES&H representative shall provide a Job Safety Orientation to all contractor and subcontractor employees prior to their starting work. The orientation, as a minimum, shall include a review of the JSA, all related permits and plans, and a review of the emergency numbers, egress routes and assembly points. Each contractor employee shall sign the Job Safety Analysis form to indicate having received the orientation.

E. Contractor ES&H Representative

The contractor ES&H representative shall designate and identify a competent member of their organization whose duty shall be the implementation of the contractor's ES&H program on the Laboratory site. Contractors shall designate and identify a competent member of their organization whose duty shall be the implementation of the contractor's ES&H program on the Laboratory site. The contractor shall implement and maintain an ES&H program that is consistent with the applicable ES&H requirements and regulations. The contractor shall be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

F. Environment, Safety and Health Documentation

The contractor shall submit the following documents, current certificates, etc. as required:

- Equipment inspection documentation required by 29 CFR 1926, Subpart N, must be submitted and approved prior to the revised work scope taking place.
- Specific procedures in the areas of fall protection, excavation, trenching, confined space, asbestos, electrical work, and maintenance and repair of equipment and facilities shall be the implementation of the contractor's ES&H program on the Laboratory site.
- Material Safety Data Sheets (MSDSs) must be maintained by the contractor at the job site. MSDSs for all products and materials brought on site shall be posted on the contractor's bulletin board.
G. Variances

Requests for exceptions to Laboratory environment, health, and safety requirements, contractor's approved ES&H Program and Implementation Plan, contractor's approved Job Safety Analysis (JSA), or specified environmental permits must be written to the Laboratory. Exceptions shall not be implemented without approval by the Laboratory.

H. Equipment and Site Access

5. Documentation of employee training and/or proof of proficiency required by OSHA and Requests for exceptions to Laboratory environment, health, and safety requirements, must be presented to Laboratory personnel upon request. Upon completion of the orientation, a gate pass will be issued to the contractor employee for the duration of the work for a fee of $20 per month. The fee must be collected by Project Specialties. This fee is to be used only by the employee whose name appears on the pass. Any misuse of the pass will result in a suspension from access for a period of six (6) months.

I. Equipment and Tool Inspection

All tools and equipment brought on site by contractors and subcontractors will be inspected by the Laboratory for compliance with OSHA and Laboratory requirements prior to use. Tools and equipment also will be randomly inspected throughout the duration of the contract. Items found out of compliance should be removed immediately from service, tagged out of service and taken off site by the contractor by the end of that work shift.

J. Laboratory Site Rules

1. Possession of weapons, firearms, ammunition, explosives or any other apparatus or material hazardous to the public or property.
2. Possession or illegal use of controlled substances or intoxicants or being under their influence.
3. Indecent behavior of any type.
4. Stealing, misuse or destruction of Laboratory or Government property.
5. Violation of site traffic and parking regulations.
6. Loboty outside of designated construction areas.
7. Using Laboratory facilities such as the cafeteria and washrooms while wearing tennis, or deck shoes are not permitted within the construction work area.
8. Personnel lifts must be equipped with an audible motion alarm for movement in any direction. All lifts must be equipped with a safety foot pedal, or other type of interlock to restrict movement.
9. If required by the equipment manufacturer, roll over protection structures shall be provided. Any modifications to lifting and hoisting equipment must be approved by the equipment manufacturer.
10. Emergency egress routes must be kept clear at all times, including doors, corridors, work site, and staging areas. Additional egress routes are also identified to the contractor and the Laboratory will arrange for all necessary permits.
11. Contractor's Supervisor, Foreman, and/or ES&H Representatives

K. Laboratory Site ES&H Requirements

The following requirements must be included in the contractor's ES&H Program and Implementation Plan and implemented on the job site.

1. The contractor conducts work through the use of on-site permits. All required permits will be identified to the contractor and the Laboratory will arrange for all necessary permits. There is no cost to the contractor for any Laboratory permits and no work shall be performed without the required permits. Such permits include work entry clearance, energized electrical work, open flame, confined space entry, digging, modification of Government or Laboratory property or site, and removing asbestos, cutting, coring, or drilling through floors, walls, ceilings and exterior foundation walls, the contractor shall follow the Blind Penetration Checklist. The contractor shall comply with all regulations or provisions listed on the permit.

2. Any modifications to scaffolding equipment shall be properly grounded. The use of powered actuated tools is prohibited without a written and signed written permission from the ECO Division Director or his/her representatives. An additional extinguisher is required in the construction site within 100 feet of the work area. An additional extinguisher is required for each open flame operation.

3. Stage 1 (First Documented Safety Violation)

Upon receipt of the first documented safety violation, the contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. If a noncompliance is verified by the Laboratory Fire Inspector, the contractor employee is notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits. The contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. The contractor employee will be notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits.

4. Stage 2 (Second Documented Safety Violation)

If the contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. The contractor employee will be notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits. The contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. The contractor employee will be notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits.

5. Stage 3 (Third Documented Safety Violation)

If the contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. The contractor employee will be notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits.

6. Stage 4 (Fourth Documented Safety Violation)

If the contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. The contractor employee will be notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits.

7. Stage 5 (Fifth Documented Safety Violation)

If the contractor employee is observed to be involved in a situation which places him/her or others in a hazardous situation, and the contractor employee is not following the ES&H Program and Implementation Plan. The contractor employee will be notified of the violation and a copy of the written warning and/or suspension letter is distributed to the contractor and the Laboratory will arrange for all necessary permits.
Any contractor's representative who receives a suspension of any kind will not be allowed to continue in the ES&H representative capacity unless re-instated by the Laboratory. Any suspension invoked upon a contractor's representative, foreman, and/or ES&H representative will start on the day following the documented safety violation to allow the contractor time to arrange for a replacement, unless the violation involves imminent danger which warrants immediate action. The contractor is responsible for submitting for approval, the name and qualifications of a replacement ES&H representative before work will continue. Once the ES&H representative's status has been terminated, it is at the discretion of the Laboratory to determine reinstatement.

8. Cost to the Contractor

If Laboratory disciplinary action results in suspension of contractor employee(s) including, but not limited to, termination for cause, ES&H representative as discussed above, the contractor shall make no claim for an extension of time or for compensation for damages by reason of, or in connection with, this disciplinary action.

9. Bid Drop, Removal and Disqualification

A contractor's ES&H performance will be an important factor for future consideration for bid selection and selection criteria. This will include a review by the Laboratory of the contractor's performance, misconduct, negligence, and safety violations by both its employees and that of any of its subcontractors. If it is determined by the Laboratory that the contractor has failed to implement its ES&H plan or has demonstrated a repeated pattern of negligence in enforcing ES&H compliance on the Laboratory site, the contractor will not be allowed to bid work or work as a subcontractor on the Laboratory site for a period of time determined by the Laboratory. For example, two suspensions in one year and a poor safety record are grounds for disqualification (i.e., removal from active bidder lists, or list of contractors). The contractor may request reinstatement after a one year period. The contractor's request must be in writing and contain the company's corporate safety plan and an updated "Argonne National Laboratory Contractor Safety Information Questionnaire," PFS-525.

M. Drug-Free Workplace

It is the Laboratory's policy to maintain a drug-free workplace. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on the Laboratory site. Also, contractor employees are prohibited from consuming alcohol at the Laboratory. Contractor and subcontractor employees who violate this policy will be subject to disciplinary action, including discharge.

The contractor and all lower tier subcontractors shall abide by the Drug-Free Workplace Act (42 U.S.C. 6556). Any action taken under this clause will be in addition to any disciplinary action of which they may be guilty under their own policies or under this policy, and (2) notify their employer of any drug statute convictions for a violation occurring in the workplace no later than five (5) days after such convictions. The contractor will notify the laboratory within ten (10) days of the information of an affected employee. Failure to provide such notification shall be reasonable cause for immediate discipline up to and including barring the employee site access.

45. ENVIRONMENTAL PROTECTION (MAY 2001)

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

46. LIMITATIONS PERIOD (MAY 2001)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract must be 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 the claim arose, whichever occurs first, otherwise the contractor shall be barred from pursuing such action.

47. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) Neither this contract nor any interest therein nor any claim thereunder shall be assigned or transferred without the prior written consent of the Laboratory. Neither this contract nor any interest therein nor any claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory. Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under this contract or any tier shall be in the same form and under the same conditions as this clause, that work performed under this contract conforms to the contract.

(b) The contractor shall submit a written list of the names of all subcontractors who will perform any tier or any subcontract for work under this contract. Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under this contract or any tier shall be in the same form and under the same conditions as this clause, that work performed under this contract conforms to the contract.

(c) The contractor shall remedy at the contractor's expense any failure to conform, or any defect.

(d) The contractor shall remedy at the contractor's expense any failure to conform, or any defect. The Laboratory shall notify the contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage. The contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Laboratory shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the contractor's expense.

(e) If the contractor fails to comply with any tier or any subcontractor, manufacturer, or suppliers for work performed and materials furnished under this contract, the contractor shall -- (1) Obtain all warranties that would be given in normal commercial practice; (2) Require all warranties to be executed, in writing, for the benefit of the Laboratory, if directed by the Laboratory; and (3) Enforce all warranties for the benefit of the Laboratory, if directed by the Laboratory.

(f) In the event the contractor's warranty under paragraph (f) of this clause has expired, the Laboratory may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(g) Unless a defect is caused by the negligence of the contractor or subcontractor or supplier at any tier, the contractor shall not be liable for the repair of any defects of material or design furnished by the Laboratory nor for the repair of any damage that results from any defect in Laboratory furnished material or design.

(h) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(i) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(j) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(k) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(l) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(m) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(n) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.

(o) The contractor shall be responsible for submitting for approval, in writing to the Laboratory, a statement of the contractor's liability for the repair of any defects of material or design furnished by the Laboratory.
(g) All policies shall provide by appropriate language that UChicago Argonne, LLC, the University of Chicago and the United States Government are additionally insured, that the insurance afforded by such policies is primary insurance, and that all rights of the insured for contribution from other insurers of UChicago Argonne, LLC, the University of Chicago and the United States Government are waived.

(i) The contractor agrees to deliver to the Laboratory at the signing and delivery of the within contract, and in any event before any work is performed hereunder, certificates of the insurance companies as to the particulars of the insurance coverage above referred to, and such certificates shall contain a provision that such insurance shall not be cancelled or nor any change whatsoever made in the policies except upon not less than (10) days prior notice thereof to the Laboratory mailed to it by registered mail, and payment prepaid, addressed to the Subcontractor Administrator, Construction Contracts, Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL 60439.

Before permitting any subcontractor to perform any work under this contract, the contractor shall require that such subcontractor furnish satisfactory evidence that it has taken out and maintained insurance in the same amounts and with the same provisions as required by the preceding paragraphs of this clause.

52. ADDITIONAL BOND SECURITY (OCT 1999)

The contractor shall promptly furnish additional security required to protect the Laboratory and persons supplying labor or materials under this contract if:

(a) Any bond must be written to protect the contractor and the subcontractor for their loss or damage under any agreement made to protect the contractor or a Subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies.

(b) Except for the delivery to the Government of a particular construction material subject to the requirements of the Buy American Act, the cost of such material exceeds the cost of material of domestic origin by more than 5 percent.

53. OTHER CONTRACTS (OCT 1999)

The Laboratory or the Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The contractor shall fully cooperate with the other contractors and with Laboratory or Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, hindering any direction that may be provided by the Laboratory. The contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Laboratory or Government employees.

54. BUY AMERICAN ACT—CONSTRUCTION MATERIALS (SEP 2010)

(a) Definitions. As used in this clause—

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

(i) Meets one of the following:

- A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
- Offered to the Government in substantial quantities in the commercial marketplace; or
- Offered to the Government, under a contract or subcontract at any time, without modification, in the same form in which it is sold in the commercial marketplace; and

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

- "Component" means an article, material, or supply incorporated directly into a construction material.

- "Construction material" means an article, material, or supply brought to the construction site by the Contractor or a Subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work that have been evaluated as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

- "Cost of components" means—

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

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

- "Domestic construction material" means—

(i) An unmanufactured construction material produced and manufactured in the United States;

(ii) A construction material manufactured in the United States, if—

- The cost of its components, whether purchased or manufactured in the United States exceeds 55 percent of the cost of all components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic construction material;

- The construction material is a COTS item.

- "Foreign construction material" means a construction material other than a domestic construction material.

(b) "United States" means the 50 States, the District of Columbia, and outlying areas.

- "Domestic preference.

(1) This clause implements the Buy American Act (41 U.S.C. 10a - 100) by providing a preference for domestic construction material. In accordance with 41 U.S.C. 431, the contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b) (2) and (b) (3) of this clause.

(2) This requirement does not apply to information technology that is a commercial item or to the construction material or components listed by the Government as follows:

- NONE

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b) (2) of this clause if the Government determines that—

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American Act is unreasonable when the cost of such material exceeds the cost of material of domestic origin by more than 5 percent.

(ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest;

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.


(i) Any Contractor request to use foreign construction material in accordance with paragraph (b) (3) of this clause shall include adequate information for Government evaluation of the request, including—

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction material, including a completed price comparison table in the format in paragraph (b) (4) of this clause.

(2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b) (3) of this clause.

(c) Prior to the award of a contract, and in any event before any work is performed hereunder, certificates of the insurance described in paragraph (e) of this clause.

(d) Costs.

- (1) The Contractor shall make an equitable adjustment as provided in paragraph (h) of this clause.

- (2) The Contractor shall make an equitable adjustment as provided in paragraph (h) of this clause.

- (3) The Contractor shall make an equitable adjustment as provided in paragraph (h) of this clause.

55. GOVERNMENT/LABORATORY PROPERTY (OCT 1999)

(a) Laboratory-furnished property.

- (1) The term "Contractor's managerial personnel," as used in paragraph (g) of this clause, means any of the Contractor's directors, officers, managers, supervisors, or equivalent representatives who have supervision or direction of—

(i) All or substantially all of the Contractor's business; or

(ii) All or substantially all of the Contractor's operation at any one plant, or separate location at which the contract is being performed.

- (2) The Laboratory shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Laboratory-furnished property described in the specifications or elsewhere in the contract, together with such related data and information as the Contractor may request and as may be reasonably required for the intended use of the property (hereinafter referred to as "Laboratory-furnished property.").

- (3) The delivery or performance dates for this contract are based upon the expectation that Laboratory-furnished property suitable for use will be delivered to the Contractor at the times stated in the contract or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.

- (4) If the Laboratory-furnished property is not suitably satisfactory for the intended use, the Contractor shall, upon receipt, notify the Laboratory, detailing the facts, and, as directed by the Laboratory and at Laboratory expense, either effect whatever repairs or modifications are required, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Laboratory shall furnish an equitable adjustment as provided in paragraph (h) of this clause.

- (5) If Laboratory-furnished property is not delivered to the Contractor by the required time, or times, the Laboratory shall, upon the Contractor's timely written request, make a
(b) Change to Laboratory-furnished property

(1) The Laboratory may, by written notice, (i) decrease the Laboratory-furnished property provided or to be provided under this contract, or (ii) substitute other Laboratory-furnished property for the property to be provided by the Contractor, or to be acquired by the Contractor for the Laboratory, under this contract. The Contractor shall promptly take all action as may be required of the Contractor by the Laboratory for the removal, disposal, or disposition of the property covered by this notice.

(2) Upon the Contractor’s written request, the Laboratory shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause. The Contractor has agreed to the contract to make such property available for performing this work, and there is any

(i) Decrease or substitution in this property pursuant to subparagraph (b)(1) above; or

(ii) Withdrawal of authority to use property, if provided under any other contract or lease.

(c) Title to Property

Except as otherwise provided by the Laboratory Procurement Official, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Lab,. for the cost of which the Contractor shall be entitled to reimbursement as a direct cost of the contract, shall pass directly from the vendor to the Laboratory. The Contractor shall make such disposition of Laboratory property which has come into the possession of the Contractor in the performance of this contract, or (2) commencement of processing or use of such property in the performance of this contract; or (3) reimbursement of the cost thereof by the Laboratory, whichever first occurs. Property furnished by the Laboratory and property purchased or furnished by the Contractor, to which such property is transferred, is not owned by the Laboratory, nor shall such Laboratory property or any part thereof, be or become a fixture or lose its identity as personally by reason of affixation to any real estate.

Identification

To the extent directed by the Laboratory Procurement Official, the Contractor shall identify Laboratory property coming into the Contractor’s possession or custody, by marking and segregating such property in such a way, satisfactory to the Laboratory Procurement Official, as shall indicate its ownership by the Laboratory.

Disposition

The Contractor shall make such disposition of Laboratory property which has come into the possession or custody of the Contractor under this contract as the Laboratory Procurement Official may direct during the progress of the work or upon completion or termination of this contract. The Contractor may, upon such terms and conditions as the Laboratory Procurement Official may approve, sell, exchange, acquire property, or dispose of any property acquired or obtained under the Contract, (i) in order for a property management system to be approved, it must provide for:

(1) The Contractor shall take all reasonable precautions, and such other actions as may be directed by the Laboratory Procurement Official, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect Laboratory property in the Contractor’s possession or control.

(2) In addition, the Contractor shall ensure that adequate safeguards are in place, and that the handling, control, and disposition of high risk property and classified materials throughout the life cycle of the property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management Regulations (41 CFR, Part 101), the Department of Energy Property Management Handbook, and other applicable regulations.

High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. Such property includes sensitive, nuclear related dual use, export controlled, chemically or radioactively contaminated, hazardous, and specially designed and prepared property, including property on the militarily critical technologies list.

Risk of loss of Laboratory property

(a) The Contractor shall not be liable for the loss or destruction, or damage to any of the following:

(A) Willful misconduct or lack of good faith on the part of the Contractor personnel;

(B) Failure of the Contractor’s managerial personnel to take all reasonable steps to comply with any appropriate written direction of the Laboratory Procurement Official to safeguard such property under paragraph (e) of this clause; or

(C) Failure of Contractor personnel to establish, administer, or properly maintain an approved property management system in accordance with the Laboratory Procurement Official’s instructions as contained in the Federal Property Management Regulations.

(ii) If, after an initial review of the facts, the Laboratory Procurement Official informs the Contractor that there is reason to believe that the loss, destruction, or damage to the Laboratory property results from conduct falling within one of the categories set forth in subparagraph (i) of this clause, the Laboratory Procurement Official shall review the contractor’s records to determine if the Contractor should not be required to compensate the Laboratory for the loss, destruction, or damage.

(b) The Contractor shall not be liable for the loss, destruction, or damage to Laboratory property in accordance with (g)(1) of this clause, the compensation to the Laboratory shall be determined as follows:

For damaged property, the compensation shall be the cost of repairing such damaged property, plus any costs incurred for temporary replacement of the damaged property, unless the Laboratory can show that the cost of repairing comparable repairs shall not exceed the market value of the damaged property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

For destroyed or lost property, the compensation shall be the fair market value of such property determined in accordance with any costs incurred for temporary replacement and costs associated with the disposal of destroyed property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

For destroyed or lost property, the compensation shall be the fair market value of such property determined in accordance with any costs incurred for temporary replacement and costs associated with the disposal of destroyed property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

For destroyed or lost property, the compensation shall be the fair market value of such property determined in accordance with any costs incurred for temporary replacement and costs associated with the disposal of destroyed property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

The Contractor shall make such disposition of Laboratory property which has come into the Contractor’s possession or custody of the Contractor under this contract as the Laboratory Procurement Official may approve, sell, or exchange such property, or acquire such property in any manner authorized under the Laboratory Procurement Official’s authority.

(iii) In order for a property management system to be approved, it must provide for:

(A) Comprehensive coverage of property from the requirement identification, through classification, through inventory and counting, through property handling, through accountability, through examination, through disposition, through disposition disposal, through salvage, through depreciation, through valuation, through storage, through movement, through receipt, through transfer, through inspection

(B) The Contractor shall take all reasonable precautions, and such other actions as may be directed by the Laboratory Procurement Official, or in the absence of such direction, in accordance with sound business practice, to safeguard and protect Laboratory property in the Contractor’s possession or custody.

(f) Protection of Laboratory Property - Management of high-risk property and classified materials

(1) The Contractor shall take all reasonable precautions, and such other actions as may be directed by the Laboratory Procurement Official, or in the absence of such direction, in accordance with sound business practice, applicable Federal Property Management Regulations and Department of Energy Property Management Regulations, and such directives or instructions which the Laboratory Procurement Official may from time to time prescribe.

(iii) Approval of the Contractor’s property management system shall be contingent upon the completion of the baseline inventory as provided in subparagraph (2)(x) of this clause.

Property Inventory

(i) Unless otherwise directed by the Laboratory Procurement Official, the Contractor shall, within nine months of expiration of the contract provide a baseline inventory covering all items of Laboratory property.

(iv) In the event that the Contractor is successful in another contract, and (ii) is the successor in interest to the Contractor in the performance of this contract, the Contractor shall conduct a joint reconciliation of the property inventory with the predecessor contractor. The Contractor agrees to provide the predecessor contractor with such information as may be necessary to enable the predecessor contractor to reconcile the property inventory for the predecessor contractor.

(5) Risk of loss of Laboratory property

(a) The Contractor shall not be liable for the loss or destruction, or damage to Laboratory property unless such loss, destruction, or damage was caused by any of the following:

(A) Violation of the law, or of the order, or of the decision of any Court of competent jurisdiction, or of any administrative or other body having the power to make binding regulations in the particular field.

(ii) If, after an initial review of the facts, the Laboratory Procurement Official informs the Contractor that there is reason to believe that the loss, destruction, or damage to the Laboratory property results from conduct falling within one of the categories set forth in subparagraph (i) of this clause, the Laboratory Procurement Official shall review the contractor’s records to determine if the Contractor should not be required to compensate the Laboratory for the loss, destruction, or damage.

(b) The Contractor shall not be liable for the loss, destruction, or damage to Laboratory property in accordance with (g)(1) of this clause, the compensation to the Laboratory shall be determined as follows:

For damaged property, the compensation shall be the cost of repairing such damaged property, plus any costs incurred for temporary replacement of the damaged property, unless the Laboratory can show that the cost of repairing comparable repairs shall not exceed the market value of the damaged property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

For destroyed or lost property, the compensation shall be the fair market value of such property, determined in accordance with any costs incurred for temporary replacement and costs associated with the disposal of destroyed property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

For destroyed or lost property, the compensation shall be the fair market value of such property, determined in accordance with any costs incurred for temporary replacement and costs associated with the disposal of destroyed property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

For destroyed or lost property, the compensation shall be the fair market value of such property, determined in accordance with any costs incurred for temporary replacement and costs associated with the disposal of destroyed property. If a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.
shall allow authorized representatives of the Laboratory Procurement Representative or Department of Labor to interview employees in the workplace during working hours (e) The provisions set forth in paragraphs (a) through (d) of this clause in subcontracts may require or involve the employment of laborers and mechanics and require subcontractors to include these provisions in any such lower-tier subcontracts. The Contractor and each lower-tier subcontractor shall be responsible for the complete compliance by any subcontractor or lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

58. DAVIS-BACON ACT (JULY 2005)

(a) Definition.—Site of the work—

(1) Means—

(i) The primary site of the work. The physical place or places where the construction called for in the contract will remain when work on it is completed.

(ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is—

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided

(i) They are dedicated exclusively, or nearly so, to the performance of the contract or project;

(ii) They are or are physically adjacent to the primary site of the work as defined in paragraph (a)(1)(i) or the “secondary site of the work” as defined in paragraph (a)(1)(iv) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of the contract or project;

(b) (1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor, which is attached hereto and made a part of this contract or, hereafter, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers or mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work on the contract was performed at that site and shall be incorporated without any adjustment in price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work or between the primary site of the work and the fabrication plants or tool yards shall be paid at the same rates contained in the wage determination applicable to the primary site of the work;

(2) Contractors made of costs reasonably anticipated to be paid to laborers or mechanics under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a) of this clause, also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period;

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers, mechanics, helpers, apprentices, and trainees shall, if reasonably necessary, be paid at the same rate as that specified for each classification for the time actually worked therein; provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed;

(4) The wage determination (including any additional classifications and wage rates contained in paragraph (a) of this clause) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers;

(c) (1) The Contractor shall require that any class of laborers or mechanics which is not listed in the wage determination shall, if reasonably necessary, be compensated at the rate specified for each classification for the same job or type of labor, and the ratios and wage rates prescribed in the applicable programs. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the rates and wage rates prescribed in the applicable programs.

(2) The Contractor shall require that any class of laborers or mechanics which is not listed in the wage determination shall, if reasonably necessary, be compensated at the rate specified for each classification for the same job or type of labor, and the ratios and wage rates prescribed in the applicable programs. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the rates and wage rates prescribed in the applicable programs.

59. DAVIS-BACON ACT—PRICE ADJUSTMENT (NONE OR SEPARATELY SPECIFIED METHOD) (DEC 2001)

(a) The wage determination issued under the Davis-Bacon Act by the Administrator, Wage and Hour Division, Department of Labor, for this contract, or the wage determination for the same job or type of labor, as applicable, that is effective for an option to extend the term of the contract, will apply to that option period.

(b) The Laboratory will make no adjustment in contract price, other than for provided elsewhere in this contract, to cover any increases or decreases in wages and benefits as a result of

(i) Incorporation of the Department of Labor’s wage determination applicable at the exercise of the option to extend the term of the contract;

(ii) Incorporation of a wage determination otherwise applied to the contract by operation of law;

(iii) An increase in wages and benefits resulting from any other requirement applicable to workers subject to the Davis-Bacon Act.

60. WITHHOLDING OF FUNDS (FEB 1988)

The Laboratory shall, upon its own action or upon written request of an authorized representative of the Department of Energy or the Department of Labor, withhold or cause to be withheld from the contract the full amount of wages required by the contract or applicable federal contract with the same prime contractor, or any other Federally assisted contract subject to Davis-Bacon prevailing wage requirements, in the event of failure to pay any laborer or mechanic, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor for the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including apprentices, trainees, or helpers, employed or working on the site of the work, the Laboratory may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

61. PAYROLLS AND BASIC RECORDS (JUNE 2010)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each worker, his or her hours worked, wages paid, and the hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof). Contractors shall submit to the Laboratory, on a weekly basis, a properly executed certification set forth on the reverse side of Form W-2 indicating that no payroll deductions were made from the payroll required by the contract, the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including apprentices, trainees, or helpers, employed or working on the site of the work, the Laboratory may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(b) The Contractor shall, at all times, submit week by week all copies of payrolls to the Administrator. The payrolls submitted shall set forth the actual wages and contributions or costs anticipated for payments of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof). The contractor shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the rates and wage rates prescribed in the applicable programs.

(c) The Contractor shall require that any class of laborers or mechanics which is not listed in the wage determination shall, if reasonably necessary, be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed.

(d) The wage determination (including any additional classifications and wage rates contained in paragraph (a) of this clause) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(e) The Contractor shall perform and comply with the requirements of paragraph (a) of this clause, except that full social security numbers and home addresses shall not be included on weekly payrolls. In the event of failure to pay any laborer or mechanic, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor for the full amount of wages required by the contract, the Laboratory may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
62. APPRENTICES AND TRAINEES (JULY 2005)

(a) Definitions

(1) Trainee.

An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed as an apprentice.

Pursuant to an individual and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employers, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the North America and maintaining identifiable tribal affiliations through".

(3) In the event of disputes concerning labor standards, any amount paid by the contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the contractor and shall not be reimbursed by the Government. If the Government refuses to authorize the use of overtime, the contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

(4) AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(5) The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

64. SUBCONTRACTS (LABOR STANDARDS) (JUL 2005)

(a) Definitions.

(1) "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

(2) "Director," as used in this clause, means Director, Office of Federal Contract Compliance Programs (OFCCP), United States Department of Labor, or any person to whom the Director delegates authority.

(3) "Employer identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

(4) "Minority," as used in this clause, means --

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification);

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, South Pacific Islands, or the Pacific Islands);

(3) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin), and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race).

(b) The Contractor or subcontractor shall make the requirements contained in paragraphs (a)(1) of this clause available for inspection, copying, or transcription by the Contractor or representative or representatives of the Contractor or the Department of Labor. The Contractor or subcontractor shall permit the Contractor or representatives of the Contractor or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to comply with subparagraphs (1) or (2) of this paragraph, the Contractor may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

65. CONTRACT TERMINATION - DEBARMENT (FEB 1988)

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act, Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 CFR 5.12.

66. DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

67. CERTIFICATION OF ELIGIBILITY (FEB 1988)

(a) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code 18 U.S.C. 1001.

69. APPROVAL OF WAGE RATES (OCT 1999)

All straight time wage rates, and overtime rates based thereon, for laborers and mechanics engaged in work under this contract must be submitted for approval in writing by the head of the contracting activity or a representative expressly designated for this purpose. If the straight time wages exceed rates for corresponding classifications contained in the applicable Davis -Bacon Act minimum wage determination included in the contract. Any amount paid by the contractor to any laborer or mechanic in excess of the agency approved wage rate shall be at the expense of the contractor and shall not be reimbursed by the Government. If the Government refuses to authorize the use of overtime, the contractor is not released from the obligation to pay employees at the required overtime rates for any overtime actually worked.

70. AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

(a) Definitions.

(1) "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

(2) "Director," as used in this clause, means Director, Office of Federal Contract Compliance Programs (OFCCP), United States Department of Labor, or any person to whom the Director delegates authority.

(3) "Minority," as used in this clause, means --

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification);

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, South Pacific Islands, or the Pacific Islands);

(3) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin), and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race).

(b) The Contractor or subcontractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

(1) Davis-Bacon Act;

(2) Contract Work Hours and Safety Standards Act — Overtime Compensation (if the clause is included in this contract);

(3) Apprentices and Trainees;

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination — Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Davis-Bacon and Related Act Regulations; and

(11) Certification of Eligibility.

(c) The Prime Contractor shall be responsible for compliance with any subcontractor or lower tier subcontractor performing work on construction within the United States. Each subcontractor will include all of the clauses in paragraph (b) of this clause have been included in the subcontract.

(1) Within 14 days after award of the contract, the Contractor shall deliver to the Laboratory Procurement Representative a complete Standard Form (SF 1413). Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor's signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after award of the subcontract the Contractor shall deliver to the Laboratory Procurement Representative an updated complete SF 1413 for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.
Nor the terms and conditions of any collective bargaining agreement, nor the failure by a contractor to:

(1) Establish and maintain a current list of sources for minority and female recruitment.
(2) Establish and maintain a current file of the names, addresses, and telephone numbers of minority and female off-the-street applicants, referrals of minorities or females from union referral processes, or community recruitment and training organizations serving the contractor's recruitment area, and maintain a record of the organization's responses.
(3) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest in and to all of the documents, data, materials, and other items described in paragraph (g)(2) above.
(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest in and to the contractor's records of employment and training of minority and female utilization that are covered by this contract.

The contractor shall provide written notice to minority and female recruitment sources and community organizations, to the extent that existing records are not in an easily understandable and retrievable form; however, to the degree that existing records are readily available, the contractor shall provide the contractor's written notice to the contractor's written notice to the contractor's policy is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

the contractor's policy is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(2) Provide written notification to minority and female recruitment sources and community organizations when the contractor has a written policy manual and in all minority and female employees at least once a year; and
(3) Post the policy on bulletin boards accessible to employees at each location where construction work is performed.

The contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest in and to all of the documents, data, materials, and other items described in paragraph (g)(2) above.

The contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(5) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(6) The contractor shall designate a responsible official to:

(a) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(7) Review, at least annually, the contractor's equal employment policy and affirmative action programs and the actions taken in response to any allegations of harassment, intimidation, or coercion at all sites and facilities where the contractor's employees are assigned to work.

(8) The contractor shall provide written notice to minority and female recruitment sources and community organizations, to the extent that existing records are not in an easily understandable and retrievable form; however, to the degree that existing records are readily available, the contractor shall provide the contractor's written notice to the contractor's written notice to the contractor's policy is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(9) The contractor shall designate a responsible official to:

(a) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(10) Provide written notification to minority and female recruitment sources and community organizations when the contractor has a written policy manual and in all minority and female employees at least once a year; and
(11) Post the policy on bulletin boards accessible to employees at each location where construction work is performed.

The contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(12) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(13) The contractor shall provide written notice to minority and female recruitment sources and community organizations, to the extent that existing records are not in an easily understandable and retrievable form; however, to the degree that existing records are readily available, the contractor shall provide the contractor's written notice to the contractor's written notice to the contractor's policy is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(14) The contractor shall designate a responsible official to:

(a) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(15) Provide written notification to minority and female recruitment sources and community organizations when the contractor has a written policy manual and in all minority and female employees at least once a year; and
(16) Post the policy on bulletin boards accessible to employees at each location where construction work is performed.

The contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(17) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(18) The contractor shall provide written notice to minority and female recruitment sources and community organizations, to the extent that existing records are not in an easily understandable and retrievable form; however, to the degree that existing records are readily available, the contractor shall provide the contractor's written notice to the contractor's written notice to the contractor's policy is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(19) The contractor shall designate a responsible official to:

(a) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(20) Provide written notification to minority and female recruitment sources and community organizations when the contractor has a written policy manual and in all minority and female employees at least once a year; and
(21) Post the policy on bulletin boards accessible to employees at each location where construction work is performed.

The contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(22) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(23) The contractor shall provide written notice to minority and female recruitment sources and community organizations, to the extent that existing records are not in an easily understandable and retrievable form; however, to the degree that existing records are readily available, the contractor shall provide the contractor's written notice to the contractor's written notice to the contractor's policy is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(24) The contractor shall designate a responsible official to:

(a) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.

(25) Provide written notification to minority and female recruitment sources and community organizations when the contractor has a written policy manual and in all minority and female employees at least once a year; and
(26) Post the policy on bulletin boards accessible to employees at each location where construction work is performed.

The contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(27) Monitor all employment related activity to ensure that the contractor's equal employment opportunity program is being carried out; failure to comply with this clause shall be grounds for termination of the contract.
If the termination is partial, the Contractor may file a proposal with the Contracting Officer for
the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

The Contractor shall submit complete termination inventory schedules no later than 120 days
from the effective date of termination, unless extended in writing by the Contracting Officer.

After termination, the Contractor shall submit a final termination settlement proposal to the
Contracting Officer in the form and with the certification prescribed by the Contracting Officer.

The Contracting Officer is authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items into an agreement for their storage. Within
15 days, the Government will accept title to those items and remove them or enter into a

The contract price for completed supplies or services accepted by the Government (or paid or authorized for disposition by the Contracting Officer) will not exceed the amount to which the Contractor will be entitled.

The reasonable costs of settlement of the work terminated, including—

(i) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts (excluding the amounts of such subcontracts) not previously paid for, adjusted for any saving of freight and other charges.

The total of—

(i) The costs incurred in the performance of the work terminated, including initial costs and preliminary expenses—

(a) To the extent that the contractor has not been reimbursed therefor, but exclusive of any attributable supplies or services paid or to be paid under paragraph (g)(1)(i) of this clause; and

(b) To the extent that the contractor has been reimbursed therefor, paid in any other manner determined by the Contracting Officer because of the circumstances.

Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contractor shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

The cost of settling and payment of termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the contractor would have sustained a loss on the entire contract had it been completed, the Contractor shall submit the determination to the Contracting Officer within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid the Contractor because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined as follows, but without duplication of any amounts agreed upon under paragraph (f) of this clause.

For contract work performed before the effective date of termination, the total (without duplication of any items) of—

(i) The cost of this work;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(1)(i) of this clause; and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

The reasonable costs of settlement of the work terminated, including—

(i) The termination and settlement of subcontracts (excluding the amounts of such subcontracts) not previously paid for, adjusted for any saving of freight and other charges;

(ii) The termination and settlement of subcontracts that are properly chargeable to the terminated portion of this contract;

(iii) A sum, as profit on subdivision (g)(1)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the contractor would have sustained a loss on the entire contract had it been completed, the Contractor shall submit the determination to the Contracting Officer within 45 days from submission of the list, and shall reduce the settlement to reflect the indicated rate of loss.

The reasonable costs of settlement of the work terminated, including—

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such subcontracts) not previously paid for, adjusted for any saving of freight and other charges;

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

If the termination is partial, the Contractor may file a proposal with the Contracting Officer for
an equitable adjustment of the price(s) of the continued portion of the contract. The
Contracting Officer shall make an equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 30 days from the effective date of termination unless extended in writing by the Contracting Officer.

The Government may, under the terms and conditions it prescribes, make partial payments and partial suspensions to the Contractor for the terminated portion of the contract, if the Contractor believes the total of these payments and partial suspensions do not exceed the amount to which the Contractor is entitled.
The rights and remedies of the Laboratory, in this clause, are in addition to any other rights and remedies of the Laboratory or its subcontractors or their suppliers, subcontractors, or suppliers. Paragraph (h)(2) may be deleted from the basic clause if the contracting officer determines that such termination can be accomplished without causing substantial hardship to the contractor. If the Contractor and the Contracting Officer fail to agree in whole or in part on the amount to be paid under the proposals submitted under this paragraph (h), the Contracting Officer shall compute the amount, on a time and material basis, if information available, the amount, if any, due the Contractor and shall pay the amount determined as follows:

If the termination is for the convenience of the Government, include—

(i) An amount for direct labor hours [as defined in the Schedule of the contract] determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the Schedule, less any hourly rate payments already made to the contractor;

(ii) An amount (computed under the provisions regarding payment of materials) for materials, equipment, or supplies not delivered to and accepted by the Government;

(iii) An amount for labor and materials expended as computed if the expenses were incurred before the effective date of termination if they are reasonably incurred after the effective date; and

(iv) Any amount for preparation of the Contractor's termination settlement proposal and supporting data.

If the termination is partial, the Contractor may file with the Contracting Officer a proposal for an equitable adjustment of the price(s) for the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination, unless extended by writing from the Contracting Officer.

73. DEFAULT (OCT 1999)

(a) If the contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insures completion within the time specified in this contract including any extension, or fails to complete the work within the time therein specified, by the time agreed to by the Government, or, by valid written agreement terms, the contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Laboratory may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The contractor and his sureties shall be liable for any damage to the terminated portion of the contract and failure to complete the work within the specified time, whether or not the contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Laboratory in completing the work.

(b) The contractor's right to proceed shall not be terminated nor the contractor charged with damages under this clause:

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (i) acts of God or of the public enemy, (ii) acts of the Government in either its sovereign or contractual capacity, (iii) acts of another contractor in the performance of a contract with the Government, (iv) floods, (v) epidemics or quarantine restrictions, (vi) acts of war, destruction, or strikes, (vii) freight embargoes, (viii) unusually severe weather, or (ix) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the contractor and the subcontractors or suppliers; and

(2) The contractor, within 10 days of the beginning of any delay (unless extended by the Laboratory), notifies the Laboratory in writing of the causes of delay. The Laboratory shall ascertain the facts and the extent of delay. If, in the judgment of the Laboratory, the findings of fact warrant such action, the time for completing work shall be extended.

(c) If, after termination of the contractor's right to proceed, it is determined that the contractor was not in default, or that the delay was excusable, the rights, obligations and obligations of the parties will be the same as if the termination had been issued for the convenience of the Laboratory.

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

74. ANTI-KICKBACK PROCEDURES (OCT 2010)

This clause applies to all subcontracts that exceed $50,000 (a) Definitions

(1) "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any person, employee, or agent of a prime contractor for the purpose of improperly obtaining or rewarding favorable transactions in connection with a subcontract relating to a prime contract,

(2) "Prime Contractor," as used in this clause, means a contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

(3) "Subcontractor," as used in this clause, means any contractor or subcontractor under any subcontract, or any other person who has other than a minimal impact or involvement in contract performance.

(4) "Prime Subcontractor," as used in this clause, means any contractor or subcontractor under any subcontract, or any other person who has other than a minimal impact or involvement in contract performance.

75. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the contractor shall not do business with or purchase from any person who is on OFAC’s List of Specially Designated Nationals and Blocked Persons at 31 CFR chapter V, or OFAC’s List of Specially Designated Nationals and Blocked Persons at 31 CFR chapter V, if OFAC’s implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, and OFAC has prohibited the importation of goods from Burma (Myanmar) into the United States or its embargo areas. Lists of entities and individuals subject to economic sanctions are included in OFAC’s List of Specially Designated Nationals and Blocked Persons at 31 CFR chapter V, and OFAC’s List of Specially Designated Nationals and Blocked Persons at 31 CFR chapter V, if OFAC’s implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(c) The Contractor agrees to incorporate the substance of this clause, including subparagraphs (c)(1) through (c)(8), into all subcontracts under this contract which exceed $150,000.

75. RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) — APPLICABLE TO CONTRACTS WHICH EXCEED $100,000

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or item (including computer software) made or furnished by the subcontractor under this contract or under any other contract with the Contractor.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other person under the contracting authority's specific purchase solicitation.

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

76. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

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

(b) The contractor shall or have inserted the substance of this clause, including 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.

77. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

(1) "Coercion" means—

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

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

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

(b) Prohibited conduct. It is a prohibited act of any person, contractor or subcontractor, to engage in any conduct, by means of any scheme, plan, or pattern, which induces another person, contractor or subcontractor, to act or fail to act, if the conduct: (i) is such as, under the circumstances, would induce a reasonable person to believe that the person, contractor or subcontractor would lose a substantial advantage, benefit, or consideration if the person, contractor or subcontractor did not act or failed to act; and (ii) is likely to induce the person, contractor or subcontractor to act in furtherance of the illegal scheme, plan, or pattern.

(c) How to file a complaint. A contractor or subcontractor, or its employee, partner, owner, or agent, may file a complaint with the Office of Compliance or the Office of the Inspector General, or to any other Federal agency or instrumentality, if OFAC’s implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.
79. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

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

(a) Definitions. As used in this clause:

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint;

(2) The abuse or threatened abuse of the legal process;

(3) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform that act was less than 18 years of age;

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act (5 U.S.C. 552 note) and includes Alaska Native.

(b) Prohibitions. A contractor or subcontractor shall not—

(1) Pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of a covered Federal action;

(2) Pay any person, other than an officer or employee of a covered Federal action or an extension, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

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

(1) Agency and legislative liaison by Contractor employees.

(2) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(3) Payments to a person requesting or receiving a covered Federal action or an extension, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (c)(2) of this clause are permitted.

(d) Disclosures.

(1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor must complete an OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of this clause, the Contractor or subcontractor that awards the subcontract shall retain the declaration.

(e) False statements.

(1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An individual who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties for failure to file or amend the disclosure to be filed or amended by paragraph (d) of this clause, and a change occurs that affects Block 10 of the OMB Standard Form LLL, and name and address of lobbying registrant or individuals performing services, the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using the OMB Standard Form LLL.
control statutes or regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

83. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2002)

The United States is committed to encouraging technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is exempted from U.S. export control regulations, all control information must be available by all of the export control laws and regulations to ensure its compliance with export controls. An export can occur through a variety of means, including oral communications, written documentation, or electronic transfer. A technology transfer to foreign nationals while they are visiting the United States or other countries while you are visiting their country are considered exportations. You and the Laboratory can be held liable for improperly transferring controlled technologies.

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

- Fundamental research and information resulting from fundamental research
- Published information and software (publically available) education information
- Patent applications

If the information, technology, and/or commodities do not fall into one of these categories, please contact the export control Manager prior to any export. To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, keep the following guidelines in mind that without having acquired an export license prior to your trip, you may be subject to Federal law, under the Export Administration Order 13513 to limited to only those topics that are not on the DOE Sensitive Subjects List and the Argonne Sensitive Technologies and not related to controlled items or technologies that are in the public domain. Further elaboration, or additional details, may be considered an export of technologies and need an export license prior to release.

84. VEHICLE LIABILITY INSURANCE COVERAGE (MAY 2001)

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

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

(a) Definitions. As used in this clause—

(1) Texting—means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of a traffic light, a traffic sign, 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 haled a location where one can safely remain stationary.

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

(b) The clause implementation Effective Order 11350 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 texting 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) Promote initiatives in a manner commensurate with the size of the business, such as—

(i) Adopting and enforcing policies consistent with Texting and Driving—a Federal Motor Carrier Safety Administration Guidelines; and

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

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

86. INTEGRATION CLAUSE (MAY 2003)

This contract represents the full understanding of the parties and is the entire agreement between the Government and the Contractor. There are no understandings or agreements other than those incorporated into this contract.

87. 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 and evaluation activities, or performing any other activity related to DOE missions and standards, must:

1. Select 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.)

2. Participate as appropriate in development and review of those DOE Technical Standards that serve the contractor's technical or programmatic interests, or will be affected by the content of DOE Technical Standards under development, or as directed by the Contracting Officer.

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

4. Report participation in VCS activities conducted in support of DOE missions and functions through the Laboratory Technical Standards Manager in The Office of Contract Administration (OCA) and the Argonne Contract Office.

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

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

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

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Headmarkings are usually raised – sometimes indented.

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

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

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

Policy:

U.S. Department of Energy (DOE) contractor employees shall be provided with safe and healthful working conditions in accordance with the standards prescribed pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, and the Department of Energy Reorganization Act of 1977. Such standards shall be consistent with those promulgated under the Occupational Safety and Health Act of 1970, Public Law 91-596. Please refer to DOE O480.1A for details.

DOE Contractors:

DOE has determined that Argonne National Laboratory is subject to DOE Acquisition Regulation (DEAR), Subpart 907.23, and is, therefore, required to comply with applicable DOE-prescribed Occupational Safety and Health Administration (OSHA) standards listed therein. This Order and the standards are available for employee review at Argonne Site Office Building 201.

As delineated in DOE Order 440.1A, Attachment 2, Contractor Requirements Document, the DOE contractor is required to:

1. Implement a written worker protection program that provides a place of employment free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees.
2. Establish written policy, goals, and objectives for the worker protection program.
3. Use qualified worker protection staff to direct and manage the worker protection program.
5. Encourage employee involvement in the development of program goals, objectives and performance measures and in the identification and control of hazards in the workplace.
6. Inform workers of their rights and responsibilities by appropriate means, including posting this poster in the workplace where it is accessible to all workers.
7. Identify existing and potential workplace hazards and evaluate the risk of associated worker injury or illness.
8. Implement a hazard prevention/abatement process to ensure that all identified hazards are managed through final abatement or control. For existing hazards identified in the workplace, abatement actions prioritized according to risk to the worker shall be promptly implemented. Pending final abatement and workers shall be protected immediately from imminent danger conditions.
9. Provide workers, supervisors, managers, visitors and worker protection professionals with worker protection training.
10. Ensure that subcontractors performing work on DOE-owned or leased facilities comply with these requirements and the contractor's own site worker protection standards (where applicable).

Contractors are also required to comply with the Federal regulations and national standards listed in section 12 of Attachment 2 to DOE O 440.1A. In addition, DOE O 440.1A contains requirements for the following specific functional areas, if the contractor is involved in these activities: construction safety, fire protection, firearms safety, explosives safety, industrial hygiene, occupational medical, pressure safety, motor vehicle safety, and suspect and counterterrorism controls. Please refer to DOE O 440.1A for details.

Employees:

DOE contractor employees have the right to:

1. accompany DOE worker protection personnel during workplace inspections;
2. participate in the activities provided for in DOE O 440.1A, Attachment 2, an official time;
3. express concerns related to worker protection;
4. decline to perform an assigned task because of a reasonable belief that, under the circumstances, the task poses an increased risk of death or serious bodily harm to that individual, coupled with a reasonable belief that there is insufficient time to seek effective redress through the normal hazard reporting and abatement procedures established in accordance with the requirements herein;
5. have access to DOE worker protection publications, DOE-prescribed standards, and the organizations own worker protection standards or procedures applicable to the workplace;
6. observe monitoring or measuring of hazardous agents and have access to the results of exposure monitoring;
7. be notified when monitoring results indicate they were overexposed to hazardous materials; and
8. receive results of inspections and accident investigations upon request.

Inspections:

All activities under this contract are subject to inspection by DOE. When an inspection under DOE O 440.1A is conducted, a contractor management representative and a representative authorized by the employees will be given an opportunity to accompany the DOE inspector.

Where there is no representative authorized by the employees, the DOE inspector will consult with a reasonable number of employees concerning safety and health conditions in the workplace.

Concerns:

Employees or former employees may file a concern with the contractor management or with the local DOE office, as described in DOE O 442.1A. Concerns may be submitted either verbally or by calling the local DOE office employee concerns hotline, telephone 800-761-9966, or in writing. An example report form is available adjacent to each hotline poster, or one may be obtained from the Employee Concerns Manager at the local DOE office.

Imminent Danger:

DOE Contractors are required to implement procedures to allow workers, through their supervisors, to stop work when they discover employee exposures to imminent danger conditions or other serious hazards. The procedure shall ensure that any stop work authority is exercised in a justifiable and reasonable manner.

Nondiscrimination:

No contractor shall discharge or in any manner discriminate against any employee by reason of the filing of a complaint, or in any other fashion, exercising on behalf of himself or herself or others any action set forth in DOE O 440.1A or DOE O 442.1A.

It is the policy of DOE that employees of contractors at DOE facilities should be able to provide information to DOE, to Congress, or to their contractors concerning violations of laws, danger to health and safety, or matters involving mismanagement, gross waste of funds, or abuse of authority, to participate in proceedings conducted before Congress or pursuant to this part, and to refuse to engage in illegal or dangerous activities without fear of employer reprisal. Contractor employees who believe that they have been subject to such reprisal may submit their complaints to DOE for review and appropriate administrative remedy as provided in 10 CFR Part 708.

Inquiries:

Inquiries should be addressed to the contractor; however, additional inquiries may be addressed to the local DOE office:

Chicagpo Office
(DOE Office)
Attn: Employee Concerns Manager
9800 S. Cass Avenue
Lemont, IL 60439
(P.O. Box or Street Address)

Posting Requirements:

Copies of this notice must be posted in a conspicuous number of places in Government-owned plants and facilities operated by DOE contractors subject to DOE Acquisition Regulatiom (DEAR), Subpart 907.23 and DOE O 440.1A, to permit employees working in or frequenting any portion of the plant to observe a copy on the way to or from their workplace.