APPENDIX A
Argonne Terms And Conditions
(For Fixed-Price Construction Contract)

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Section I - Clauses That Are Mandatory For All Federally Funded Contracts/Orders

1. EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

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

(a) General

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability to the extent that the employee or applicant is able to perform the position with reasonable accommodation based upon their physical or mental disability in all employment practices such as:

(i) Recruitment, advertising, and job application procedures;
(ii) Hiring, upgrading, or promotion, transfer, layoff, termination, right of return from layoff, and rehiring;
(iii) Pay or any other form of compensation and changes in compensation;
(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
(v) Leaves of absence, sick leave, or any other leave;
(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
(vii) Selection and financial support for training, including apprenticeship, professional examinations, professional meetings, and transition to other active related activities, and selection for leaves of absence to pursue training;
(viii) Activities supported by the Contractor, including social or recreational programs; and
(ix) Any other term, condition, or privilege of employment.

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

(b) Postings

(1) The Contractor agrees to post employment notices stating -- (i) The Contractor's obligation under the law to take affirmative action to employ qualified individuals with disabilities; and (ii) the rights of applicants and employees to file complaints or other requests for information.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Assistant Secretary).

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement of the obligation.

(c) Compliance

If the Contractor does not comply with the requirements of this clause, the appropriate agencies may take legal action against the Contractor, and the employee or employee's union may file a complaint with the Assistant Secretary.

(d) Subcontracts

The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

2. ACCESS TO AND OWNERSHIP OF RECORDS (OCT 2014) (DEVIATION/MAY 2015)

(a) Government-owned records. Except as provided in paragraph (b) of this clause, all records in the possession, control, or custody of the contractor in its performance of this contract, including records series described within the contract as Privy Access system of records, shall be the property of the Government and shall be maintained in accordance with 36 Code of Federal Regulations (CFR), Chapter XII, Parts 52.224-7 and 52.224-21. The Contractor shall notify records acquired or generated during the performance of the contract in accordance with the requirements of this clause; in connection with this contract.

(b) Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause.

(i) Employment-related records, such as payroll and personnel files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee complaints; records generated during the course of administering or complying with 29 U.S.C. 623 or 793, or with any other federal, state, or local laws and regulations;
(ii) Professional and technical records generated during other employee related investigations conducted under an expectation of confidentiality, employee assistance program records; personnel and medical/health-related records and similar files; and non-employee patient medical/health-related records, except those records described by the contract as being operated and maintained by the Contractor in Privacy Act system of records.

(c) Confidential contractor financial information, internal corporate governance records and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor’s corporate headquarters);

(d) Records relating to procurement actions by the contractor, except for records that under 48 CFR 970.5232-3 are described as the property of the Government;

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

(f) With the following categories of records maintained pursuant to the technology transfer clause of this contract:

(i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence;
(ii) The contractor's protected Cooperative Research and Development Agreement (CRADA) information and communications (as defined by a CRADA the contractor licensing terms and conditions, or royalty or royalty rate information.

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

(a) Accounts. The Contractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting all allowable costs incurred; collections in accounting for the work performed under this contract; other allowable costs, negotiated fixed amounts, and fee allowances under this contract; and the receipt, use, and disposition of all Government property coming into the possession of the contractor under this contract; and accounts maintained by the contractor shall be satisfactory to the Contracting Officer for inspection, audit, or final audit by the Department of Energy.

(b) Inspections. The DOE may require the contractor to submit for inspection any of the contractor's records or to provide such an audit to be performed by the cognizant government audit agency through the Contracting Officer.

(c) Disposition of records. Except as agreed by the Government and the Contractor, all financial and cost reports, books of account and supporting documents, system files, data bases and other data, records, and other information, as described in paragraph (a) above, shall be destroyed by the contractor at the time of the final audit and final audit of accounts hereunder. Except as otherwise provided in this clause, provisions of 41 CFR 102-70.37-3.12 or as determined by the Government and the Contractor.

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

(e) Subcontracts. The Contractor further agrees to require from any subcontractor performing any of the subcontractor’s directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any employee regarding such transactions.

4. ANTI-KICKBACK PROCEEDINGS (MAY 2014)

(a) Definitions. "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the
5. CLASSIFICATION/DECLASSIFICATION (SEP 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy's regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or data. The term, "classification," means the physical medium on or in which information is recorded and; "material" means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Classified Information (classified under the Atomic Energy Act of 1954, as amended)" and the "National Security Information (classified under Executive Order 12958 or prior Executive Orders)." The original decision to classify or declassify information is considered an inherently Government function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other persons who are not Government employees may serve as derivative classifiers which involves making classification decisions based upon classification guidance which reflect decisions made by Federal Government employees. The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by either a Federal Government or a contractor Derivative Classifier in accordance with classification guidance which reflect decisions made by Federal Government employees. The contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier. In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Classified Information) which are in its possession or under its control are periodically reviewed by a Federal Government or contractor Derivative Classifier in accordance with classification regulations, requirements, directives and classification guidance furnished by the Department of Energy to determine if the documents are no longer appropriately classified. Priorities for reclassification or declassification of classified documents shall be based on the degree of public and research interest and the likelihood of declassification upon review. Documents which no longer contain classified information shall be unclassified. Declassified documents shall then be reviewed to determine if they are publicly releasable. Documents which are declassified and determined to be publicly releasable are to be made available to the public in order to maintain the public's access to as much Government information as possible while minimizing security costs. The contractor or subcontractor shall insert this clause in any subcontract which involves or may access classified information.

6. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

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

(2) "Deemed large" means the status or condition of a debtor arising from a pledge by the borrower or his personal services or those of a person under his or her control as a security for the debt, if the value of those personal services is not reasonably appraised in order to avoid the risk of harming the Government's interest.

(3) "Disabled person" means an employee of the Contractor directly engaged in the performance of work under this contract who has other than a minor impairment or involvement in performance contract.

(4) "Foreclosed" means knowingly providing or obtaining the labor or services of a person—

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

(b) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person does not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

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

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

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies described in Title 20 U.S.C. 4171 through 4172. The contractor shall provide notice to employees of whistleblower protections established at 41 U.S.C. 4171 through 4172 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FARS 3.908.

(b) The contract shall include the language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4172, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The contractor shall insert this clause in all subcontracts over the simplified acquisition threshold.

8. COVENANT AGAINST CONTINGENT FEES (MAY 2014)

(a) The contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall not be liable to the Contractor or any employee, subcontractor, or subsubcontractor for any loss or damage, whether in the capacity of a contractor or subcontractor, or otherwise, resulting from the performance of the contract or subcontract.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither acts nor processes to exact improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(c) "Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who is not engaged in solicitation of business or offer contracts or subcontracting with Government or any one of its contractors with respect to work under its contract with the Government at the time of the solicitation or offer.

(d) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither acts nor processes to exact improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

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

(f) "Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or official to consider or act regarding a Government contract on any basis other than the merits of the matter.
10. EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013)

(a) Definitions. As used in this clause—

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

(2) A has value of more than $3,000; and

(3) Includes work performed in the United States.

11. EMPLOYMENT REPORTS ON VETERANS (JUL 2014)

(a) Definitions. As used in this clause, "Armed Forces service medal veteran," "disabled veteran," "active duty wartime or campaign badge veteran," and "recently separated veteran" have the meanings set forth in 38 U.S.C. 1013. "Employer" means the contractor, prime vendor, or prime contractor (i) that is located in the United States, (ii) that is located in a United States possession, or (iii) that is located in a commonwealth or territory of the United States, or (iv) that is located in a country with which the United States has been at war. "Employer" does not include a prime vendor or prime contractor that is a vendor, subcontractor, or other party to a subcontracting arrangement with the contractor, prime vendor, or prime contractor. "Employer" does not include an entity that is in a country other than the United States, even if the entity is located in the United States.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by 22 CFR 220.10, a list of the total number of employees hired by the contractor, and of the total, the number of disabled veterans, other protected veterans (i.e., active duty wartime or campaign badge veterans), Armed Forces service medal veterans, and recently separated veterans.

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

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

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors shall not be required to report on employees hired during the second half of the previous fiscal year.

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

(a) Definitions. As used in this clause—

"Driving," means operating a motor vehicle on an active roadway with the motor running, including while parked or stationary because of traffic, a traffic light, stop sign, or other traffic control.

(b) The Contractor is prohibited from:

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

(i) Company-owned or -leased vehicles owned by veterans; or

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

(c) The Contractor shall:

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

(2) Education, awareness, and outreach to employees about the safety threat of text messaging while driving.

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

(a) Definition. As used in this clause—

"Energy-efficient product"—

(1) Means a product that—

(i) Meets the Department of Energy and Environmental Protection Agency criteria for energy efficiency (see Table A-1 below); or

(ii) In is the upper 25 percent of efficiency for all similar products as designated by the Department of Energy's Federal Energy Management Program.

(2) The term "products" does not include any part of the product or system designed or procured for combat or combat-related missions (22 CFR 826a).

(3) The use of products that are energy-efficient products (i.e., ENERGY STAR® labeled (tagged) products) at the time of contract award, for products that are—

(i) Delivered;

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

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

(iv) Specified in the design of a building or work, or incorporated during its construction, modification, or renovation

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

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

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

Information about these products is available for—

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

(2) FEMP at http://www.energystar.gov/products, and FEMP at http://www.energystar.gov/products, and
14. ENVIRONMENTAL PROTECTION (MAY 2001)

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

15. EQUAL OPPORTUNITY (APR 2015)

(a) Definition. As used in this clause—
"Gender identity" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/GGBT/GBT_FAQs.html.

(b) Definition or interpretation. Has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/GGBT/GBT_FAQs.html.

US States, means the states of the District of Columbia, Puerto Rico, the Northern Marianas Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(ii) If, during any 12-month period preceding the award of this contract, the Contractor has been or is a nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the Contractor shall comply with the requirements of this clause 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.

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

(i) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. This clause shall include, but not be limited to—

(ii) Employment;

(iv) Promotion;

(v) Layoff or termination;

(vi) Rates of pay or other forms of compensation;

(vii) Selection for training, including apprenticeship;

(viii) Referral for possible employment.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contractor to employees and applicants for employment.

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

(5) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

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

(7) The Contractor shall comply with the applicable standards set forth in Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(8) The Contractor shall promptly notify the Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(9) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission to observe any transaction during the course of an investigation.

(10) The Contractor shall comply with the standards set forth in Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(11) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that it issues or procures by the rules, regulations, and orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(12) The Contractor shall take such action with respect to any subcontract or purchase order as the Office of the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided that, if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction of the Office of the Contracting Officer, the Contractor must notify the United States to enter into the litigation to protect the interests of the United States.

(13) Nothing in any other clause in this contract, disputes relative to this clause shall be governed by the procedures in 41 CFR 60-1.1 et seq.

16. EQUAL OPPORTUNITY FOR VETERANS (JULY 2014)

(a) Definitions. As used in this clause—
"Active service" means wartime or campaign badge veteran, "Armed Forces service medal veteran," "disabled veteran," "protected veteran," "qualifying disabled veteran," and "recently separated veteran." The meaning of these terms has given in 41 CFR 60-300.5(a).

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

(c) Notice to veterans. The Contractor shall insert the insertion notice required by this clause in all subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify property to the parties and their therethrough.

17. FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause—
"After-imposed Federal tax" means any new or increased Federal excise tax or duty, or tax or duty that was exempted, excluded, or excluded but whose exemption was revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is not required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-received Federal tax" means any Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but for which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"All applicable Federal taxes" means the taxes described in paragraphs (b), (c), and (d) of this definition, regardless of their source or classification.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, paid by the Contractor, that is not required to be paid or borne by the Contractor.

(d) The contract price shall be decreased by the amount of any after-received Federal tax, paid by the Contractor, that is not required to be paid or borne by the Contractor.

(e) The contract price shall be increased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor was required to pay or bear, or that the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

(f) After-received Federal taxes are taxes received by Federal, State, or local governments after the end of the calendar year in which the revenue or expense was incurred.

(g) The Contractor shall not be liable for the loss or destruction of, or damage to, any Government property, unless caused by any of the following—

(i) Willful misconduct or lack of good faith on the part of the Contractor's employees.

(ii) Damage or destruction of Government property in connection with the performance of any other contract, procurement, or other transaction by the Contractor or its employees, except when such loss, destruction, or damage was caused by any of the following—

(A) War.
(C) Failure of contractor managerial personnel to establish, administer, or maintain an approved property management system in accordance with paragraph (h)(1) of this clause.

(ii) If, after an initial review of the facts, the Laboratory Procurement Official informs the Contractor that there are reasonable grounds to believe that the loss, destruction of, or damage to government property results from conduct falling within one or more of the conditions specified in paragraph (j) of this clause, the Contractor shall be notified in writing of the investigation and shall be required to cooperate with the Government in accordance with paragraph (j) of this clause.

(j) The Contractor shall take all reasonable steps to protect the property remaining, and shall not repair or replace the damaged, destroyed, or lost property, in accordance with the direction of the Laboratory Procurement Official. The Contractor shall take no action prejudicial to the right of the Government to recover, and shall furnish to the Government, on request, all reasonable assistance in obtaining the property.

(k) Property Management. The Contractor shall maintain an approved property management system, which shall include:

(i) Property Management System:

(A) The Contractor shall maintain an approved property management system of accounting for and control, utilization, maintenance, inventory, and disposition of Government property in its possession under the contract. The Contractor’s property management system shall be submitted to the Laboratory Procurement Officer for approval and shall be maintained and administered in accordance with sound business practice, applicable Federal Property Management Regulations, and any property management regulations, and such directives or instructions which the Contracting Officer may from time to time prescribe.

(2) Property Inventory:

(A) The Contractor shall keep a complete, detailed record of all Government property in its possession under the contract in the form of a record book, card file, or similar means. The record shall be available for inspection and shall be maintained in a manner convenient for reference. The record shall include, but not be limited to, the following information:

(i) All property provided to the Contractor for use under this contract or purchased or developed by the Contractor with value exceeding the threshold set out in the Contractor’s approved project plan.

(ii) All property owned by the Contractor that is allocable to the cost of labor, materials, or facilities.

(iii) All property used by the Contractor in the performance of this contract.

(3) The property protected by this clause is not to be restored to the original condition unless restored at the Government’s expense.

19. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)

All information technology acquired under this Agreement shall include the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology website at http://csrc.nist.gov.

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

Site Access: All access, including cyber access utilizing a Laboratory account, by all non-U.S. citizens must be reviewed and approved by the Laboratory Director or his designee. All new requests must be submitted on Form ANL-650, Non-U.S. citizens and access (on site for 30 days or less) or assignments (on site for more than 30 days in a 12-month period). A certified host must be assigned for each visit or assignment. Form ANL-650 should be submitted in advance at the earliest possible time. Liberty is not granted in advance of the visit or assignment. The request for access must include the following:

(a) The purpose of the visit or assignment.

(b) The duration of the visit or assignment.

(c) The site(s) or facility(s) to be visited or assigned.

(d) The location(s) or city(s) where the visit or assignment will take place.

(e) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(f) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(g) The dates of the visit or assignment.

(h) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(i) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(j) The dates of the visit or assignment.

(k) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(l) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(m) The dates of the visit or assignment.

(n) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(o) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(p) The dates of the visit or assignment.

(q) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(r) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(s) The dates of the visit or assignment.

(t) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(u) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(v) The dates of the visit or assignment.

(w) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(x) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(y) The dates of the visit or assignment.

(z) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(aa) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(bb) The dates of the visit or assignment.

(cc) The names and positions of the Contractor’s personnel who will be involved in the visit or assignment.

(dd) The names and positions of the Contractor’s personnel who will be responsible for the visit or assignment.

(2009)
22. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, “days prior to the delivery of, or prior to completion of any servicing required by this contract, of items containing either

(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 this contract;

(2) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 micromicrocuries per gram or the activity per item equals or exceeds 0.01 micromicrocuries, and all containers in which such items, parts or subassemblies are delivered to the Government or the Laboratory shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.

(b) If the Contractor (d) of this clause, shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

23. NOTICE TO THE LABORATORY OF LABOR DISPUTES (OCT 1999)

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the work under this contract, the Contractor shall immediately give written notice, including the subject of the dispute, to the Laboratory at the address below:

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

24. NOTIFICATION OF EMPLOYEES RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496 (APR 2010)

[APPLIES TO CONTRACTS EQUAL TO OR GREATER THAN $10,000]

Federal contractors and subcontractors are required to inform employees of their rights under various Federal laws. The notice provides information about the rights of employees under the Labor-Management Relations Act (NLRA), the National Labor Relations Board (NLRB), the Federal Service Labor-Management Relations Act (FSLRA), and the Worker Adjustment and Retraining Notification Act (WARN Act).

25. NOTIFICATION OF EMPLOYEES RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

 Applies To Contracts That Exceed $10,000 In Value

Due to the terms of this contract, the Contractor shall post an employee notice, of such size and such form, as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including but not limited to:

(a) Employee notices shall be prominently posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.210 and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor’s plants and offices so that the notice is prominent and readily apparent to employees; or

(2) Posting electronically by the Contractor, where the employee notice shall be accessible to employees.

(3) The Secretary of Labor may determine if the employee notice is being promulgated and provided in an accessible manner.

(4) The Contractor shall comply with the requirements set forth in paragraphs (a) through (d) of this clause, which may be terminated or suspended in whole or in part, at any time, by the Secretary of Labor, and the Contractor may be cited for noncompliance with Section 10(b) of the Act.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, which may be terminated or suspended in whole or in part, at any time, by the Secretary of Labor, the Contractor may be cited for noncompliance with Section 10(b) of the Act.

(f) Subcontracts

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

26. PAYMENTS (FEB 2004)

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

(b) The Laboratory shall make progress payments monthly as the work proceeds, or at more frequent intervals as deemed necessary by the Laboratory, and shall be withheld in the manner provided by the contract. The Contractor shall remit such progress payments immediately to the Contractor.

(c) The Contractor shall furnish a breakdown of
the total contract price showing the amount included therein for each principal category of the work, in such detail as required, to provide a basis for determining progress payments. In the preparation of estimates the Laboratory may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the contractor at local or other than the site may also be taken into consideration if—
   (1) Consideration is specifically authorized by this contract; and
   (2) The contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) In making these progress payments, there shall be retained 10 percent of the estimated amount until final completion and acceptance of the contract work. However, if the Laboratory finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Laboratory may authorize payment to be made in full without retention of a percentage. When the work is substantially complete, the Laboratory shall retain an amount that the Laboratory considers adequate protection of the Laboratory and may release to the contractor all or a portion of any excess amount. Also, upon completion and acceptance of the contract work, building, public work, or other division of the contract, for which the price is stated in the contract, payment may be made for the completed work without retention of a percentage.

Contra. Contract shall ensure that all payments due to subcontractors and suppliers for all materials and services will be made from any progress payments received under this contract.

(d) All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as—
   (1) Relieving the contractor or the contractor from the responsibility to the Government for the work upon which payments have been made or the restoration of any damaged work; or
   (2) Waiving the right of the Laboratory to require the fulfillment of all of the terms of the contract.

(e) The Laboratory shall, after receipt of a proper invoice, reimburse the contractor for the entire amount of premiums paid for performance and payment bonds (including casuistry and reinsurance agreements, when applicable) after furnishing evidence of full payment to the surety.

(f) Property.
   (1) Property shall mean all tangible personal property as identified in Argonne Form PD-125, Control of Government Property—Contractor Requirements, in the section entitled, "IDENTIFICATION" that has been purchased by the contractor in the performance of the contract work, and which the contractor is entitled to be reimbursed as a direct item of cost under this contract or for which the contractor has included the cost for such property in the fixed price charged to the Laboratory.
   (2) All INVOICES submitted under contracts which contain Argonne Form PD-125, Control of Government Property—Contractor Requirements, shall be accompanied by the completed form entitled Argonne Laboratory Subcontract Property Management Government Property Acquisition Report, ANL-691.

The Laboratory will not issue payment unless a completed Form ANL-691 is included with invoices (RECIPIES IF PROPERTY IS BEING INVOICED ON A PARTICULAR INVOICE OR NOT.)

(g) The Laboratory shall pay the amount due the contractor under this contract after—
   (1) Completion and acceptance of all work;
   (2) Presentation of a properly executed voucher; and
   (3) Release of all claims against the Laboratory and the Government arising by virtue of this contract. A release may also be required of the assignee if the contractor’s claim to amounts payable under this contract has been assigned.

(h) Terms: Net thirty (30) days.

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


   b. The Contractor shall account for all forms of Government-provided identification issued to the individual contractor employees in accordance with the terms under this contract. The Contractor shall return such identification to the issuing agency at the earliest of the following, unless otherwise instructed by the Government:
      1. When no longer needed for contract performance.
      2. Upon completion of the contractor employee’s employment.
      3. At the time of the contractor contract completion.
      4. The Laboratory Procurement Official may delay final payment under a contract if the Contractor fails to comply with this paragraph.

   c. The Contractor shall insert the substance of clause, including this paragraph (d), in all subcontract agreements with the subcontractor employees who are required to have Government-issued identity documents.

   d. The Contractor shall insert the substance of clause, including this paragraph (d), in all subcontract agreements with the subcontractor employees who are required to have Government-issued identity documents.

   e. Upon completion of the contractor employee’s employment, the Contractor shall return such identification to the issuing agency at the earliest of the following, unless otherwise approved in writing by the Laboratory Procurement Official.


   a. Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appendix 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, equipment, materials, or commodities to be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) 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.

   b. The contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) 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. (1) The contractor shall submit one legible copy of a rated on-board bill of lading for each shipment to both—
      (i) The Laboratory Procurement Officer, and
      (ii) The Office of Cargo Preference

   Maritime Administration, 3200 P Street, NW, Suite 500
   Washington DC 20590

   (2) The contractor shall furnish these bills of lading copies (i) within 20 working days of the date of the order for transportation, or (ii) no later than 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

   Name of vessel.
   Name of consignee or agent.
   Date of loading.
   Date of lading.
   Date of delivery.
   Port of loading.
   Port of discharge.
   Description of commodity.
   Gross weight in pounds and cubic feet if available.
   Total ocean freight revenue in U.S. dollars.

   d. The contractor shall insert the substance of this clause, including this paragraph (d), in all contract changes from the solicitation or this contract, except those described in paragraph (e)(4).

   e. (1) The requirement in paragraph (a) does not apply to—
      (i) Cargo vessels in service of the Panama Canal Commission or as required by law or treaty,
      (ii) Ocean transportation between foreign countries of supplies purchased with foreign currencies, or derived from funds that are made, under the Foreign Assistance Act of 1961 (22 U.S.C. 2325); or
      (iii) Shipments of classified supplies when the classification prohibits the use of non- Government vessels; and
      (iv) Subcontracts or purchase orders for the acquisition of commercial items unless—
      (A) The contract is—
         (i) A contract for purchasing or for an agreement for ocean transportation services; or
         (ii) A construction contract; or
      (B) The supplies being transported are—
         (i) Property the contractor is reselling or distributing to the Government without adding value. (Generally, the contractor does not add value to the shipment when it subcontracts items for l.b. destination shipment); or
      (ii) Shipped in direct support of U.S. military—
         (A) contingency operations; (B) Foreign Assistance Act, Title II (22 U.S.C. 2325); or
         (C) Exercises; or
         (iii) Shipped to personnel deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

   (2) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the Office of Costs and Rates, Maritime Administration.

29. PREFERENCE FOR U.S. FLAG AIR CARRIERS (FEB 2006)

   a. Definitions. As used in this clause—
      (1) 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.
      (2) United States means the States of the District of Columbia, and outlying areas.
      (3) U.S.-flag carrier means an air carrier holding a certificate under 49 U.S.C. Chapter 491.

   b. Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 411B(f)(5)(Amerika—Act)) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S.-flag financed international air transportation of personal (and their personal effects) or property, to the extent that service is available and cost-effective.

   c. If available, the contractor, in performing work under this contract, shall use U.S.-flag air carriers for international air transportation of personal (and their personal effects) or property.

   d. In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a statement on vouchers that the contractor was not able to use U.S.-flag air carrier service for the following reasons (see Section 47.403 of the Federal Acquisition Regulation):

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

   International air transportation of persons (and their personal effects) or property by U.S.-
   flag air carrier was not available, or it was not necessary to use foreign-flag air carrier service for the following reasons (see Section 47.403 of the Federal Acquisition Regulation):

   (State reasons)

   (End of statement)

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

30. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS (AUG 2011)

   a. This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data under 48 C.F.R. 37.101-2(a), except that this clause does not apply to any modification if an exception under FAR 37.101-2(a) applies.

   b. If any price, including profit or fee, negotiated in connection with any modification under this clause, or any modification for which a price is not fixed under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, or the price or cost shall be reduced accordingly in accordance with this clause. The right of adjustment or 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 reduction in the contract price under this clause due to defects in data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus any applicable overhead and profit markup, by which (1) the actual 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 subcontract price was not itself affected by defective certified cost or pricing data.

(d) (1) 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:

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

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

(iii) 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.

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

(2) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset shall not be allowed 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 requested; and

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

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

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

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

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

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost or price to be reimbursable under this contract amounted to—

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

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

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

Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract cost was understated by any significant amount because—

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

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

(iii) 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.

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

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

32. PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

(a) Definitions: As used in this clause

(i) ‘Gender identity’ has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at http://www.dol.gov/ofccp/regs/ofccp/GenderIdentity_FCO.pdf

(ii) ‘Segregated facility’ means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by sex, marital status, age, race, national origin, color, religion, sexual orientation, gender identity, or national origin based on written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or shopping areas provided to accommodate the privacy provided by the sexes.

(iii) ‘Sexual orientation’ has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at http://www.dol.gov/ofccp/regs/ofccp/SexualOrientation_FCO.pdf

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

33. PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (AUG 2013)

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

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

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

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

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

(2) Does not include bulk cargo, as defined in 40 U.S.C. 4010(24), such as agricultural products and petroleum.

(b) The Government suspects or deems contractors to protect the Government’s interests.

(1) Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into an agreement to subcontract the COTS item to an active or proposed for debarment, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(2) The Contractor shall review each proposed subcontractor whose subcontract will exceed $30,000, other than a subcontractor providing a commercially available off-the-shelf item, to determine whether the subcontractor is an active or proposed for debarment, suspended, or proposed for debarment by the Federal Government.

(c) A contractor or subcontractor designee shall certify to the Government, entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debared, suspended, or proposed for debarment (see FAR 9.404) for information on the System for Award Management (SAM) Exclusions.

(d) The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor’s knowledge of the reasons for the subcontractor being listed with the exclusion.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.

(e) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the specific basis for the party’s debarment, suspension, or proposed debarment.

(f) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall not enter into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is modified by, including the paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—

(1) Exceeds $30,000, in value; and

(2) Is a subcontract for commercially available off-the-shelf items.

34. PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

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

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

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

35. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC or OFAC’s regulations at 31 C.F.R chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) The Contractor is authorized by OFAC, most recently at 31 C.F.R. regulations at 31 CFR chapter V and/or on OFAC’s website at http://www.treas.gov/ofices/enforcement/ofac/. More information about these restrictions, as well as OFAC’s regulations at 31 C.F.R chapter V, can be obtained at OFAC’s website at http://www.treas.gov/ofices/enforcement/ofac.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

36. 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 process (including computer software) made or furnished by the subcontractor under this contract or any follow-on production contract.
37. SECURITY (OCT 2013) (DEVIATION)

Responsibility. It is the Contractor’s duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting against unauthorized disclosure and use of special nuclear material (including documents, material, and special nuclear material) which are in the Contractor’s possession in connection with the performance of work under this contract against theft, loss, or fraud. Except as otherwise specifically provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified information, special nuclear material or retained material in the possession of the Contractor in connection with performance of this contract. If retention by the Contractor of any classified material is required after the completion or termination of the contract, the Contractor shall identify the items and classify them as either categories of material requiring restriction, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security classification of the contract shall be applicable to the classified material retained. Special nuclear material shall not be retained after the completion or termination of the contract.

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

(2) Definition of Classified Information. The term “Classified Information” means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1946, or information determined to require protection against unauthorized disclosure by the Office of the Secretary, Class I Radiation Control, as amended, or prior executive orders, which is identified as National Security Information.

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

(4) Definition of Formerly Restricted Data. The term “Formerly Restricted Data” means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information: (1) relates primarily to the military utilization in weapons of special nuclear material, or (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that are subject to the law that governs the Restricted Data.

(5) Definition of National Security Information. The term “National Security Information” means information that has been determined, in accordance with Executive Order 12958, to be Classified National Security Information, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.

(6) Definition of Special Nuclear Material. The term “special nuclear material” means: (a) plutonium, enriched uranium in the isotopes U233, U235, and any material which, pursuant to 42 U.S.C. 2071 (as defined in Section 42 U.S.C. 2071 of the Atomic Energy Act of 1954) has been determined to be special nuclear material, but does not include depleted uranium; or (b) any material artificially enriched by any of the foregoing, but does not include special nuclear material as defined in Section 42 U.S.C. 2071.

(7) Access Approvals of Personnel. (a) The Contractor shall not permit any individual to have access to any classified information or special nuclear material unless the individual is authorized by Executive Order 12958, or the DOE 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 904.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

(i) A review must verify an unclassified applicant’s or unclassified employee’s educational background, including any high school diploma or equivalent obtained within the past five years, and determine if the individual is a drug-free individual, for example, by having the individual pass a drug test, which includes examination of the individual’s blood and hair to determine whether the individual has used illegal drugs. The test must be conducted by a person(s) with proper training.

(ii) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 704. All positions requiring access authorizations for DOE or another Federal agency, or whose access authorization may be revalidated without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3(c) and (d).

(iii) In conflicts and using this information to make a determination as to whether it is appropriate to select an unclassified applicant or unclassified employee to a position requiring an access authorization, the Contractor must comply with all applicable laws and regulations, including those governing the privacy of an individual’s personal information, and should including those: (a) governing the processing and privacy of an individual’s personal information, such as the Federal Information Security Management Act (FISMA), the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA), (b) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

(iv) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 704. All positions requiring access authorizations for DOE or another Federal agency, or whose access authorization may be revalidated without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3(c) and (d).

(8) Contractor reviews are not required for an applicant for DOE access authorization who provides the access authorization from DOE, or another Federal agency, or whose access authorization may be revalidated without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3(c) and (d).

(9) In conflicts and using this information to make a determination as to whether it is appropriate to select an unclassified applicant or unclassified employee to a position requiring an access authorization, the Contractor must comply with all applicable laws and regulations, including those: (a) governing the processing and privacy of an individual’s personal information, such as the Federal Information Security Management Act (FISMA), the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA), (b) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

(10) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 704. All positions requiring access authorizations for DOE or another Federal agency, or whose access authorization may be revalidated without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3(c) and (d).

(11) In conflicts and using this information to make a determination as to whether it is appropriate to select an unclassified applicant or unclassified employee to a position requiring an access authorization, the Contractor must comply with all applicable laws and regulations, including those: (a) governing the processing and privacy of an individual’s personal information, such as the Federal Information Security Management Act (FISMA), the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act (HIPAA), (b) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.

38. SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2014)

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause—

(1) "Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation within the meaning of chapter 14 of Title 43, U.S.C., or other corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended, (ANCSA, et seq.) and which is considered a minority and economically disadvantaged concern under their respective definitions of "minority" and "economically disadvantaged," which includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 13 CFR 125.5.

(2) "Commercial item" means a product or service that satisfies the definition of commercial item in section 4.601 of the Federal Acquisition Regulation.

(3) "Contractor" means a subcontracting plan (clauses) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the offeror or a subcontractor. The "contractor" means also includes any individual subcontractor or joint venture.

(4) "Electro-mechanical Subcontracting Reporting System (eSRS)" means the Governmentwide, electronic, Web-based system for small business subcontracting program reporting. The eSRS is operated by the Department of Energy and the Small Business Administration.

(5) "Indian tribe" means any Indian tribe, band, group, pueblo, or community, including native Hawaiian or Alaska Native tribal communities, as defined in the Indian Tribes Act (25 U.S.C. 460 et seq.), or any band, group, pueblo, or community as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs or the Secretary of the Interior, or that the Secretary of the Interior has recognized by law as eligible to participate in programs provided under the Alaska Native Claims Settlement Act.

(6) "Small businesses" means any small business concern which meets the size standards for all subcontracting or joint venture efforts.

(7) "Small business subcontracting plans (clauses)" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

(8) "Subcontract" means any agreement (other than one involving an employee-employer relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.
(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror fails to submit an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror’s subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total subcontracted dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of procurements that are not sub-contracts and are not allocated as indirect costs. In accordance with 11 U.S.C. 1712(d), the sum of the subcontracted goals shall not be counted towards the subcontracting goals for small business and small disadvantaged business (SBDB) concerns, regardless of the size or Small Business Administration certification status of the subcontractor.

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

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

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ARC or Indian tribe.

(B) If the ARC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ARC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ARC or Indian tribe shall retain a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ARC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ARC’s or the Indian tribe’s written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ARC or Indian tribe will be considered the designated Contractor.

(2) A statement of:

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror’s total projected sales expressed in dollars, and the total value of project subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ARC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business concerns;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns; and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to:

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

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

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company suppliers, Federal Acquisition Management, and Small Business Administration sources), and the sources selected, along with the rationale for selecting those sources (e.g., small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the offeror to prepare the plan, written solicitation procedures to the Small Business Administration, and the Small Business Administration) to facilitate the participation by such concerns. Where the Contractor’s list of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, the offeror must determine if such small business concerns an opportunity to compete over a period of time.

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

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the offeror to prepare the plan, written solicitation procedures to the Small Business Administration, and the Small Business Administration) to facilitate the participation by such concerns. Where the Contractor’s list of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, the offeror must determine if such small business concerns an opportunity to compete over a period of time.

(2) Provide and timely consideration of the potentialities of small business, small disadvantaged business, and women-owned small business concerns. The Contractor shall provide for small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

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

(4) Confirm that any small business representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the SAM database or by contacting SBA.

(5) Provide reasonable notice, concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small business, women-owned small business, and others, as applicable or modified by the appropriate local authorities.

(6) Provide notice to all unsuccessful small business subcontractor offering in the name of the notice of the apparent successful offeror prior to award of the contract.

(f) A monetary penalty, as may be appropriate, in accordance with this clause, may be incurred by any contractor or subcontractor for non-performance, or for failure to meet the requirements of this clause, including, without limitation, the following:

(1) The master plan has been approved.

(2) The offeror ensures that the master plan is updated as necessary and provides the master plan and subcontracting data, including any changes to the master plan due to contract modifications, to the Contracting Officer and subcontractors.

(3) Goals and any deviations from the master plan deemed necessary by the subcontractor to achieve the goals for subcontracting plan.

(g) A contractor's plan is not subject to the subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting, as determined by the offeror, for both, the Commercial Contract and Government Business, rather than to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same
Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet FAR 15.403-1 as a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (c)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be signed, dated, and approved by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Contractor’s fiscal year.

(b) Prior completion of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibilities of the offeror after the date of award.

I. Offeror may have no more than one plan. When a modification meets the criteria in 52.215-1(e) for a plan, or an offer is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

II. Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.215-1(c), Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.215-1(e) for Subcontracts for Commercial Items, under a prime contract.

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

(1) The prime contract, or a clause contained in this plan, or in the BSBD Program; or

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

The Contractor shall submit ISRs and SSSRs using the web-based eSRS at

Purchasers from a company, corporation, or subdivision that is an affiliate of the prime Contractor or subcontractor, unless included in these plans.

Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken on awards made to lower-tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or disadvantaged business credit from an ANC of an Indian Tribe. Only transactions involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontractors under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

1. (a) SSR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any contracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 52.215-9 (c), the dollar goal inserted on this report shall be the sum of the basic period through the current option; for example, for a report submitted after the first option, the second option is exempt at all times. The dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides—

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

(B) In the case of a subcontractor with a subcontracting plan, with the entity that awarded the subcontract.

2. SSR.

(a) Reports submitted under individual contracts plans—

(A) This report encompasses all subcontracting under prime contracts and subcontractors with the awarding agency, regardless of the dollar value of the subcontract.

(b) The report may be submitted by a corporate, company or subdivision (e.g., plant or division operating separately) as a separate profit center) basis unless otherwise directed by the agency.

(c) If a prime Contractor or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency’s contracts, provided the total dollar goal contained in one agency’s contracts is more than $500,000 (over $1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agency and/or subcontracted by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(d) DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(e) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(f) The authority to acknowledge or reject SSSRs in eSRS, including SSSRs submitted by subcontractors with subcontracting plans, resides with the Government and shall be exercised pursuant to the requirements stated in paragraph (a) of this plan until stated otherwise in the contract.

(b) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government’s fiscal year.

(B) The report shall be submitted semi-annually, within thirty days after the end of the Government’s fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall calculate the percentage of dollars attributable to each agency from which the contracts for commercial items were received.

(D) The authority to acknowledge or reject SSSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

41. SUBCONTRACTS FOR COMMERCIAL ITEMS (APR 2015)

(a) Definitions. As used in this clause—

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

Subcontract includes a transfer of commercial items between divisions, subsidiaries, or for subcontractor of the prime Contractor.

Definitions. To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors, and the contractor’s partners and nondevolved elements as components of items to be supplied under this contract.

1. (a) The Contractor shall include the following clauses in subcontracts for commercial items:


(ii) 52.222-9, Equal Opportunity for Veterans (Jul 2014) (38 U.S.C. 4212a)

(iii) 52.222-10, Equal Opportunity for Workers with Disabilities (Jul 2014) (42 U.S.C. 713)


(v) 52.222-28, Employment Rights—Under the National Labor Relations Act (Dec 2010) (E.O. 13490), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(vi) 52.222-29, Establishing a Minimum Wage for Contractors (E.O. 13658)

(vii) 52.222-26, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013), if flow down is required in accordance with paragraph (c) of FAR clause 52.222-40.

(viii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (May 2013) (46 U.S.C. 781) if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

While not required to subcontract for commercial item items a minimal number of additional clauses necessary to satisfy its contractual obligations.

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

42. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

(a) The Government may terminate work under this contract in whole or in part if the Contracting Officer determines that a termination is in the Government’s interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the term of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(i) Stop work under this contract at FAR 15.403-4.

(ii) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued performance of the work.

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

(iv) Deliver, within the Government’s possession, at the Government’s expense, any materials and equipment, including any right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to sell or to pay any termination settlement to the Contractor.

(v) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the...
(6) As directed by the Contracting Officer, title transfer and delivery of the Government—
(i) The fabricated or unfabricated parts, work in process, completed work, supplies, and other material provided or acquired for the work terminated; and
(ii) The completed or partially completed, then sold, or other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property in paragraph (d)(1) of this clause.

(b) No property covered by this clause may be returned to the Contractor or the Contractor shall sell it to the Government, without the written consent of the Contracting Officer.

(c) 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 in accordance with the requirements of the contract.

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulations, the Contractor may submit a list of the items, as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) 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 Contractor shall submit the proposal 1 year after the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within 120 days of the effective date of termination.

(f) The Contracting Officer determines the facts justifying a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contracting Officer fails to submit a final settlement proposal within the time allowed to determine if excess partial payments are inappropriate, the Contracting Officer shall reduce the settlement reflect to the indicated rate of loss.

(g) The Contracting Officer will fail to agree on the whole amount to be paid because the determination of the work, the Contractor's gross profit, and the transaction's amounts determined by the Contracting Officer as follows, but without duplication of any amount agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under paragraph (h)(3) of this clause) not previously paid for, adjusted for any saving of profit and interest on such account:

(2) The total—
(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under paragraph (g)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontractors that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(2)(i) of this clause; and

(iii) A sum, as profit on subcontracts (g)(2)(i) of this clause, determined by the Contractor under 49.202 of the Federal Acquisition Regulation, in effect on the date of this clause;

(iv) If the Contractor shall have a sustained a loss on the entire contract had it been completed, the Contracting Officer shall allow no profit under this subclause (g)(2)(i) and shall reduce the settlement reflect to the indicated rate of loss.

(3) 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 all subcontractors (excluding the amounts of such settlements); and

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

(4) Except for normal spoilage, and except to the extent that the Government expressly assumes the risk of loss, the Contracting Officer shall exclude from the costs payable to the Contractor under paragraph (g)(2) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(5) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this clause, shall govern in determining the fair value of property under this clause.

(c) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (i) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request an equitable adjustment within the time allowed, under this clause, and failed to request a time extension, there is no right of appeal.

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

(1) All unliquidated advances or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

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

(m) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.
43. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(A) Applies to contracts exceeding $100,000 (including all options)
(B) Except as otherwise exempted, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right to Know Act (42 U.S.C. 11023(a) and (g), and section 6007 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). 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.

(C) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the requirement to file Form R if the contractor's portion of the project is not a contractor-owned facility. The Contractor 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 in writing by the Contracting Officer.

(D) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.2.

(E) 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. 11023(b)(1)(A).

(F) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(b) of EPCRA, 42 U.S.C. 11023(b)(1)(A) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate consent form has been filed with EPA).

(G) The facility does not fall within Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System (NAICS) codes:

(i) Major group code 10 (except 1011, 1018, and 1094).

(ii) Major group code 12 (except 1241).

(iii) Major group code 20 through 39.

(iv) Industry code 4191, 4193, or 4093 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commercial.

(v) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6922, et seq.), or 5169, 5171, 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis).

(D) The facility is not located in a non-discovered or its outer areas.

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

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

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

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

(2) File the annual Form R for the life of the contract for such facility.

(F) The Laboratory Procurement Representative may terminate this contract or take other action appropriate, if the Contractor is not appropriately and fully and in accordance with the provisions of EPCRA and PPA toxic chemical release filing and reporting requirements.

(G) Except as acquisitions of commercial items as defined in FAR Part 2.2.12, the Contractor shall

(1) For competitive subcontracts expected to exceed $100,000 (including all options), include a solicitation provision as described above in the provision at FAR 52.221-13, Certification of Toxic Chemical Release Reporting; and

(2) Induce in any resultant subcontract there $100,000 (including all options), the substance of this clause, except this paragraph (e).
(6) Disseminate the contractor’s equal employment policy by—
(i) Providing notice of the policy to all new employees, to all employees assigned to projects, and to all employees who are to be assigned to training, employment, and outreach programs, and requesting their cooperation in assisting the contractor in meeting its contract obligations;
(ii) Including the policy in any personnel manual and in collective bargaining agreements;
(iii) Publicizing the policy in the company newspaper, annual report, etc.;
(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and
(v) Posting the policy on bulletin boards or in other work areas where construction work is performed.

(7) Review, at least annually, the contractor’s equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct a review of this policy with all on-site supervisory personnel before the start of each contract period. Any deviations from the policy, and any financial losses resulting to the contractor, shall be reported in writing to the Director, Equal Employment Opportunity Office, and the party responsible for implementing the contractor’s recruitment program.

(8) Disseminate the contractor’s equal employment policy externally by including it in any advertising in the news media, specifying local minority and female news media. Provide written notification to, and discuss this policy with, other contractors and subcontractors with whom the contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training programs. If the contractor’s recruitment program is a failure, the contractor shall develop an alternative program.

(10) Ensure all facilities and company activities are nonsegregated except that separate or single-sex toilet and necessary changing facilities shall be provided to single women as close to their working area as possible.

(11) Maintain a record of solicitations for contracts with minority and female contractors, and for the names and addresses of minority and female contractor associations and other business associations.

(12) Conduct a review, at least annually, of all supervisors’ adherence to and performance under the contractor’s equal employment and affirmative action obligations.

(b) The contractor shall be encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16). The efforts of a contractor, joint-employer, subcontractor, or a larger group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16), provided the contractor—
(i) Actively participates in the group,
(ii) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry,
(iii) Ensures that concrete benefits of the program are reflected in the contractor’s minority and female workforce participation,
(iv) Makes a good-faith effort to meet its own goals and timetables; and
(v) Can provide documentation of effectiveness of actions taken on behalf of the contractor.

(13) A single goal for minorities and a separate single goal for women shall be established. The contractor is required to provide equal employment opportunity and to take affirmative action in all minority groups, both male and female, and all women, both full-time and part-time. Consequently, the contractor may be in violation of Executive Order 11246, as amended, if he shall fail to participate in any affirmative action program. The contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(14) The contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended, and shall require all subcontractors to also comply with this section.

(15) The contractor shall carry out such sanctions and penalties as are necessary for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(16) The contractor shall be in full compliance with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Director shall take action as prescribed in 41 CFR 60-4.1.

(17) The contractor shall designate a responsible official to—
(i) Monitor all employment-related activities to ensure that the contractor’s equal employment policy is being carried out;
(ii) Submit reports as may be required by the Laboratory or the Government; and
(iii) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rates and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records need not be maintained.

(18) Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of conduct on the requirements of the self-help programs or local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

47. APPRENTICES AND TRAINEES (JULY 2005)

(a) Apprentices

(1) An apprentice will be permitted to work at least at the predetermined rate for the work performed when employed.
(ii) Pursuant to an individual registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer,  
Labor Services (OATES) or with a State Apprenticeship Agency recognized by the OATES or another entity, the following conditions shall be met before the trainee may be permitted to continue in the program:
(i) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATES or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice;
(ii) The allowable rate of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor for the same craft classification, as set forth in the Contract.
(iii) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise authorized to be paid such rate, shall not be paid less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the hours established on the applicable wage determination shall be paid at not less than the applicable wage rate on the wage determination for the work actually performed.
(iv) If there is a Compliance Agreement in a project in a locality other than that in which its program is registered, the rates and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the Contractor’s or subcontractor’s collective bargaining agreement shall be paid at not less than the rate specified in the registered program for the apprenticeship classification.
(v) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. The apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
(vi) In the event OATES, or a State Apprenticeship Agency recognized by OATES, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
(b) Trainees

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer,  
Labor Services (OATES) recognizing that the trainee who is paid at not less than the rate specified in the registered program for the apprenticeship classification.
(2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee’s level of progress, expressed as a percentage of the journeyman’s hourly rate in the specific trade being participated in. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. In the event OATES or a State Apprenticeship Agency withdraws approval of a training program, the Contractor will no longer be permitted to use apprentices at less than the applicable wage rate in the wage determination for the work actually performed.
(3) In the event OATES withdraws approval of a training program, the Contractor will no longer be permitted to use trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

48. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) 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. The Laboratory may assign the whole or any part of this contract to the Government or its designated successors and assigns.

(b) The contractor shall submit a written list of the names of all subcontractors who will perform any part of the work or any portion of the materials to the Laboratory within ten (10) days after the effective date of this contract or in any event prior to engaging subcontractors or ordering such materials. The Laboratory reserves the right to refuse any subcontract that it deems to be unsatisfactory, and to demonstrate that he is qualified and experienced to perform the proposed portion of the work.

49. BONDS AND INSURANCE (JULY 2015)

(a) Definition. “Original contract price” means the award price of the contract or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract prices does not include any options, except those options exercised at the time of contract award.

(b) Contracts exceeding $100,000 (Miller Act).
(i) Performance bonds. Unless the Laboratory Procurement Official determines that a lesser amount is adequate for the protection of the Laboratory, the penal amount of the performance bond must be—
(ii) 100 percent of the original contract price; and
(iii) If the contract price increases, an additional amount equal to 100 percent of the increase.

(c) Payment bonds.
(i) The amount of the payment bond additional amount equal to 100 percent of the increase.
(ii) The amount of the payment bond must be no less than the amount of the performance bond.

(d) Contracts exceeding $25,000 but not exceeding $100,000. The penal amount of the performance bond or payment bond must be—
(i) 100 percent of the original contract price; and
(ii) The contract price increases, an additional amount equal to 100 percent of the increase.

(e) In the event the contract price increases, the Laboratory must require additional protection by directing the contractor to—

(1) Increase the penal sum of the existing bond,
(2) Obtain an additional bond; or
(3) Furnish additional alternative payment protection—

(i) As a certified letter of credit;
(ii) As a triparty escrow agreement;
(iii) By an irrevocable letter of credit; or
(iv) As a surety bond;
(a) Annual performance bonds only apply to nonconstruction contracts. They shall provide a gross penal sum applicable to the total amount of all covered contracts.
(b) When the penal sums obligated by contracts are approximately equal to or exceed the penal sum of the annual performance bond, an additional bond will be required to cover additional contracts; or other types of bonds in connection with soliciting a contractor's supplies or services. These types include advance payment bonds and patent infringement bonds. (c) Reducing amounts. The Laboratory Procurement Official may reduce the amount of the security to support a contract to the conditions of FAR 28.203-5(c) or 28.204(b). (f) Before undertaking any work under this contract, the contractor shall, except as otherwise approved by the Laboratory, take out and maintain at its own cost and expense, until the work called for hereunder shall be completed and accepted by the Laboratory, the following insurance in companies satisfactory to the Laboratory:

**LINE OF COVERAGE**  
<table>
<thead>
<tr>
<th>LIMITS</th>
<th>EACH OCCURRENCE</th>
</tr>
</thead>
</table>
| GENERAL LIABILITY  
Claims Made or Occurring | $2,000,000 |
Policy | | |
| Aggregate Limit Applies Preceding Indemnity | | |
| Log | | |
| AUTOMOBILE LIABILITY  
Any Auto | COMBINED SINGLE LIMIT |
| WORKMAN'S COMPENSATION AND EMPLOYMENT LIABILITY  
E.L. ALL RISKS | E.L. EACH OCCURRENCE |
| | E.L. DISEASE EA EMPLOYEE |
| | E.L. DESEASE-POLICY LIMIT |

(g) All policies shall provide by appropriate language that UChicago Argonne, LLC, the University of Chicago and the United States Government are additional insureds, that the insurance afforded by such policies is primary insurance to all that all rights of the insurer for contribution from other insurers of UChicago Argonne, LLC, the University of Chicago and the United States Government are waived.

(h) 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 begun, a certificate of the insurance companies as to the particularities of the insurance coverage above referred to, and such certificates shall contain a provision that such insurance will not be cancelled or not renewed or changed, whatsoever made in the policies except upon not less than ten (10) days' notice thereof to the Laboratory, mailed to it by registered mail, with postage prepaid, addressed to the Subcontract Administrator, Construction Contracts, Argonne National Laboratory, 9700 South Cass Avenue, Lemont, IL 60439.

(i) Before permitting any subcontractor to perform any work under this contract, the contractor shall cause such subcontractor furnished with satisfactory evidence that it has taken such steps as may be necessary to procure and maintain insurance in the same amounts and with the same provisions as required by the preceding paragraphs of this clause.

50. BUY AMERICAN ACT—CONSTRUCTION MATERIALS (MAY 2014)

(a) Definitions. As used in this clause:
"Commercially available off-the-shelf (COTS) item"—(1) Means any item of supply (including construction material) that is—
(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
(ii) Sold in substantial quantities in the commercial marketplace; and
(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
(ii) Does not include bulk cargo, as defined in 46 U.S.C. 40102(d), such as agricultural products and petroleum products.
"Component" means an article, material, or supply incorporated directly into 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 includes the item brought to the site in the 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 and that are produced 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 contractor are supplies, not construction material.
"Cost of components" means—(1) The cost of components purchased, manufactured, or manufactured in the United States;
(2) The cost of components mined, purchased, or manufactured in the United States which exceeds 50 percent of the cost of all its components. Components of the foreign origin of the component for which nonavailability determinations have been made are treated as domestic; or
(3) The cost of components purchased, manufactured, or manufactured in the United States;
(b) United States means the 50 States, the District of Columbia, and outlying areas.
(b) Domestic preference.
(1) This clause applies 41 U.S.C. chapter 63, Buy American, by providing a preference for domestic construction material in accordance with 41 U.S.C. 52. 52. Any construction material tested by the contractor is waived for construction material that is a COTS item. (See FAR 12.202(a)(2)). 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 materials or components listed by the Government as follows:
[Contracting Officer to list applicable exceptions or indicate "none"]
(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) at any time that 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 statute is unreasonable the cost of such material exceeds the cost of foreign material by more than six percent.
(ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
(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.
(c) Request for determination of inapplicability of the Buy American statute.
(1) (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) The cost 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 supplier; and
(H) A detailed justification of the reason for use of foreign construction material as cited in accordance with paragraph (b)(3) of this clause.
(2) If the request is reasonable, the Contractor will need to determine whether the price of the domestic construction material would be higher than the price of the foreign construction material. If the determination is higher, the Contractor may obtain the foreign construction material. If the determination indicates that the price of the foreign construction material is not higher than the price of the domestic construction material, the Contractor will request an increased construction limit.
(3) Unless the Government determines that an exception to the Buy American statute applies and the Contractor and the Contractor negotiates adequate consideration, the Contractor will modify the contract to allow the foreign construction material to be used. However, the basis for the exception is that the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3) of this clause.
(4) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
(5) If the Government determines after contract award that an exception to the Buy American statute applies and the Contractor and the Contractor negotiates adequate consideration, the Contractor will modify the contract to allow the foreign construction material to be used. However, the basis for the exception is that the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3) of this clause.
(6) Data, to permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting information based on the survey of suppliers:
Foreign and Domestic Construction Materials Price Comparison
Construction Material Description Unit of Measure Quantity Price (Dollars)*
Item 1: Foreign construction material
Domestic construction material
Item 2: Foreign construction material
Domestic construction material
Item 3: Foreign construction material
Domestic construction material
Item 4: Foreign construction material
Domestic construction material
Item 5: Foreign construction material
Domestic construction material
Item 6: Foreign construction material
Domestic construction material
Item 7: Foreign construction material
Domestic construction material
Item 8: Foreign construction material
Domestic construction material
Item 9: Foreign construction material
Domestic construction material
Item 10: Foreign construction material
Domestic construction material

51. CERTIFICATION OF ELIGIBILITY (MAY 2014)

(a) By entering into this contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor isineligible to be awarded Government contracts by virtue of 40 U.S.C. 314A(b)(2) or 28 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 40 U.S.C. 314A(b)(2) 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.

52. CHANGES (JUNE 2007)

(a) The Laboratory Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes in
(1) The specifications (including drawings and designs);
(2) In the method or manner of performance of the work;
(3) In the Government furnished property or services; or
(4) Directing acceleration in the performance of the work.
(b) Any other written order or oral order, as indicated in this paragraph (b), includes direction, instruction, interpretation, or determination from the Laboratory Officer that causes a change 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 has accepted the order as a change order.
(c) Except as provided in this clause, no order, statement, or conduct of the Laboratory Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
(d) If any change under this clause causes an increase or decrease in the Contractor’s cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contractor shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gave the written change order to the Contractor.
The Contractor shall at all times keep the work area, including storage areas, free from accumulated waste materials. Before completing removal of the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completion he shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

53. CLEANING UP (APR 1984)

54. COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS (MAY 2014)

(a) The wage determination issued under the Construction Wage Rate Requirements statute by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, that is effective for an offer to extend the term of the contract, and any determination applicable to that offer and that option period.

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

(1) Incorporation of the Department of Labor's wage determination applicable at the time of the offer into the term of the contract.

(2) Incorporation of a wage determination otherwise applied to the contract by operation of law.

(3) An increase in wages and benefits resulting from any other requirement applicable to workers subject to the Construction Wage Rate Requirements statute.

55. COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

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

56. CONSTRUCTION WAGE RATE REQUIREMENTS-PRICE ADJUSTMENT (NONE OR SEPARATELY SPECIFIED METHOD) (MAY 2014)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.303) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 1/2 times the basic rate of pay for each hour worked over 40 hours.

(i) Violation. Liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor are liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for all wages due and payable to the Government. The Contracting Officer will assess liquidated damages at the rate of $10 per affected employee for each calendar day on which the employer required or permitted an employee to work in excess of the standard workhours of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards statute (29 CFR Part 5) at 50% of the hourly rate payable to such employee.

(ii) Withholding for unpaid wages and liquidated damages. The Contracting Officer will withhold from payments due under contract sufficient funds required to satisfy any judgment recovered by the Government against the Contractor or subcontractor liabilities. The Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute.

(b) Payrolls and basic records.

(1) The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the workweek and shall make them available to the Government during 3 years after contract completion. The records shall contain the name and address of each employee, social security number, labor category, wage rate, hours worked per week, and actual wages paid. The records need not duplicate those required by the contractor or subcontractor for work performed by Department of Labor at 29 CFR 5.5(b) implementing the Construction Wage Rate Requirements statute.

(2) The Contractor and its subcontractors shall allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraph (d)(1) of this clause. The Contractor or subcontractor shall also allow authorized representatives of the Contracting Officer or Department of Labor to interview the employees in the workplace during working hours.

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

57. CONTRACT TERMINATION DEBARMENT (MAY 2014)

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards-Compensation, Apprenticeships, Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related 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 C.F.R. 5.12.

The Administrator of an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and, if appropriate, notify the Contractor, as well as any required labor council, of the approval or disapproval.

60. DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) 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; and

(ii) They are adjacent or virtually adjacent to the "primary site of the work" as defined in paragraph (a)(1), or the "secondary site of the work" as defined in paragraph (a)(1) of this definition.

(b) Does not include permanent home offices, branch plant establishments, fabrication plants, or other parts of the Contractor's plant which are not established to perform any specific work for the Government. When contracts for the same or similar work are entered into with the Government, the Government may consider the possibility that the work would be performed by the same or a similar supplier which are not established by a supplier of materials for the project before opening bids and not on the Project site. If the work is not included in the wage determination of the Secretary of Labor which is hereafter and may be performed by the same or a similar supplier, the wage determination of the Secretary of Labor which is hereafter and may be performed by the same or a similar supplier, the wage determination of the Secretary of Labor which is hereafter and may be performed by the same or a similar supplier, the wage determination of the Secretary of Labor which is hereafter and may be performed by the same or a similar supplier.
written notice to the Contractor. The contractor, terminate the right to proceed with the work (or the separate 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, apparatus, and plant on the work site for completing the work or the contract. The Contractor and its sureties shall be liable for any damage to the equipment, tools, materials, and any loss of time or money to the laboratory that results from the Contractor’s refusal or failure to complete the work within the specified time, whether or not the Contractor or the project is in default, and the contractor’s liability includes any increased costs incurred by the Laboratory in completing the work.

The Contractor’s right to proceed shall not be terminated or the contract shall not be terminated unless the contractor’s request for an extension of time or delay to the written request for an extension of time or delay shall have been denied.

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:
   (a) Acts of God or of the public enemy,
   (b) Acts of the Laboratory or the sovereign or contractual capacity.
   (c) Acts of another Contractor in the performance of the work with the contractor.
   (d) Fires,
   (e) Floods,
   (f) Unusual severe weather,
   (g) Delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Laboratory and the contractor.

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Laboratory) the written notice shall be made in writing as follows:

   (a) The contractor shall promptly and before the conditions are disturbed, give a written notice to the Laboratory of (1) subsurface or latent physical conditions at the site which affect 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 recognized as inhering in work of the character provided for in the contract.

   (b) The Laboratory shall investigate the site conditions promptly after receiving the notice. If the conditions do not materially affect the work or the increase in the contractor’s cost, or if the time required for performing any part of the work under this contract, which is 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 furnished, within 10 days of the receipt of such information, at the time prescribed in (a) above for giving written notice may be extended by the contractor.

   (d) 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.

61. DIFFERING SITE CONDITIONS (APR 1984)

The contractor shall take all reasonable precautions in the performance of this contract under this contract to protect the safety and health of Argonne, DOE, and contractor employees, as well as members of the public, and the protection of the environment. This includes compliance with all applicable Government, Safety and Health Regulations and requirements, including DOE’s Site Specific Regulations and all applicable requirements of DOE as identified by the Laboratory in writing from time to time. The regulations and requirements identified in Title 10 of CFR Part 85, Worker Safety and Health Program (WSHP), which invokes Title 29 CFR, Labor, including but not limited to Parts 1910 and 1920, 29 CFR Protection of Environment, 49 CFR, Transportation, and other applicable Federal, State, and local regulations for construction are also applicable. Subcontractors to Argonne National Laboratory are required to comply with applicable requirements of Title 10 of CFR Part 85, 29 CFR, 1910, and 1920.

62. DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

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 such 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.

63. ENVIRONMENT, SAFETY AND HEALTH (FEB 2014)

The contractor shall take all reasonable precautions in the performance of this contract under this contract to protect the safety and health of Argonne, DOE, and contractor employees, as well as members of the public, and the protection of the environment. This includes compliance with all applicable Government, Safety and Health Regulations and requirements, including DOE’s Site Specific Regulations and all applicable requirements of DOE as identified by the Laboratory in writing from time to time. The regulations and requirements identified in Title 10 of CFR Part 85, Worker Safety and Health Program (WSHP), which invokes Title 29 CFR, Labor, including but not limited to Parts 1910 and 1920, 29 CFR Protection of Environment, 49 CFR, Transportation, and other applicable Federal, State, and local regulations for construction are also applicable. Subcontractors to Argonne National Laboratory are required to comply with applicable requirements of Title 10 of CFR Part 85, 29 CFR, 1910, and 1920.

The contractor is responsible for ensuring that its subcontractors, if any, comply with the regulations and requirements of DOE as identified by the Laboratory in writing from time to time. The regulations and requirements identified in Title 10 of CFR Part 85, Worker Safety and Health Program (WSHP), which invokes Title 29 CFR, Labor, including but not limited to Parts 1910 and 1920, 29 CFR Protection of Environment, 49 CFR, Transportation, and other applicable Federal, State, and local regulations for construction are also applicable. Subcontractors to Argonne National Laboratory are required to comply with applicable requirements of Title 10 of CFR Part 85, 29 CFR, 1910, and 1920.

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4. If the contractor has an approved construction project safety & health plan on file with the Laboratory, revisions necessary to add a new work will be submitted, reviewed, and approved prior to commencing new work.

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 implemented by the contractor. The requirements are detailed in the project specifications. All modifications to these plans must be approved prior to implementation. If changes are made to the project work scope that affect these plans, the plans shall be updated by the contractor and approved by the Laboratory prior to the revised work scope taking place. If the work involves excavation, an erosion control plan will be required. This plan shall include the location and description of the area being excavated, the sewers, waterways, and roads to be protected, the erosion control measures to be installed, and a map of the area.

D. Job Safety Analysis (JSA)
A Job Safety Analysis (JSA) shall be performed prior to the start of any work. Contractors will submit a detailed JSA for all work activities, including any subcontracted work. The JSA shall be submitted for approval at least two weeks prior to the start of work. The JSA shall be submitted for review and approval by the Licensee or its designee. The JSA shall be reviewed for completeness, accuracy, and applicability. The JSA shall be updated as necessary to reflect changes in the work scope or work conditions. The JSA shall include, but not be limited to:

1. The activity and equipment(s) to be used, including any subcontracted work.
2. The identification of all tasks and job functions.
3. The identification of potential hazards and controls.
4. The identification of potential hazards and controls.
5. The identification of potential hazards and controls.
6. The identification of potential hazards and controls.
7. The identification of potential hazards and controls.

E. Contractor EHS Representative
Contractors shall designate and identify a competent member of their organization whose duties shall include the implementation and enforcement of the JSA, the relevant permits and plans, and a review of the emergency numbers, egress routes and assembly points. Each contractor employee shall be familiar with the JSA and its associated safety requirements. The JSA shall be submitted to the Laboratory at the end of the first work day and throughout the duration of the contract when signatures are added. The subjects to be covered by the JSA are listed in the solicitation documents.

4. The Job Safety Analysis must be formally revised to incorporate changes as required by modifications in work scope, procedures and/or equipment. The JSA shall be updated by the contractor and submitted to the Laboratory for review and approval. The JSA shall be reviewed for completeness and accuracy. The JSA shall be submitted for review and approval by the Laboratory.

5. The JSA shall be formally revised to incorporate changes as required by modifications in work scope, procedures and/or equipment. The JSA shall be updated by the contractor and submitted to the Laboratory for review and approval. The JSA shall be reviewed for completeness and accuracy. The JSA shall be submitted for review and approval by the Laboratory.

6. The JSA shall be formally revised to incorporate changes as required by modifications in work scope, procedures and/or equipment. The JSA shall be updated by the contractor and submitted to the Laboratory for review and approval. The JSA shall be reviewed for completeness and accuracy. The JSA shall be submitted for review and approval by the Laboratory.

7. The JSA shall be formally revised to incorporate changes as required by modifications in work scope, procedures and/or equipment. The JSA shall be updated by the contractor and submitted to the Laboratory for review and approval. The JSA shall be reviewed for completeness and accuracy. The JSA shall be submitted for review and approval by the Laboratory.

F. Environment, Safety and Health Documentation
The contractor shall submit the following documents, current certificates, etc., as required:

1. Equipment inspection documentation required by 29 CFR 1926. Subpart N, must be with the equipment and shall be submitted to the Laboratory prior to the start of work. This includes, but is not limited to, personnel lifts, scissor lifts, suspended scaffolds, winches, and spreader beams. Equipment inspection documentation must be updated by 29 CFR 1926 Subpart CC Cranes and Derrick in Construction must also be with the appropriate equipment.

2. As dictated by the scope of work and the mitigating actions necessary to address specific hazards, additional hazard specific plans may be required. Examples of these include, but are not limited to:
   - Open Flame Permit
   - Respiratory Protection Plan
   - Confined Space Entry Plan
   - Asbestos Abatement Plan
   - Fall Protection Plan
   - Hoisting and Rigging Plan

3. If the contractor intends to allow first aid or Cardiac Pulmonary Resuscitation (CPR), the contractor must comply with 29 CFR 1926, and supply a list of the names of employees who will administer first aid or CPR, along with current certification. This list shall be submitted to the Laboratory prior to the start of work.

4. Safety Data Sheets (SDSs) must be maintained by the contractor at the job site. SDSs for all products and materials brought on site shall be posted on the contractor’s job site board. Safety Data Sheets required as per the project specifications shall be maintained in the following order:
   - Contractor Job Safety Analysis
   - Pressure vessel certificates per 29 CFR 1926 must be submitted and approved prior to use.

5. Documentation of employee training and/or proof of proficiency required by OSHA and this contract shall be submitted for approval prior to commencement of work. Examples include CPR certifications, confined space training, respirator training, competent persons for excavations and scaffolding, NFFPA 70c training for energized electrical work, appropriate asbestos abatement training, and fall protection training.

6. The Contractor shall, without additional expense to the Laboratory, be responsible for obtaining all necessary licenses.

7. see 6.

8. see 6.

9. see 6.

10. see 6.

11. see 6.

12. see 6.

13. see 6.

14. see 6.

15. see 6.
16. The use of explosives is prohibited without written approval from the Laboratory.  
17. Vehicle operators must have an appropriate valid driver's license when operating vehicles on site.  
18. Portable metal ladders are prohibited.  
19. The contractor’s competent person performing the daily inspections required by OSHA, such as trench and excavation, and scaffold inspections, shall document each inspection. Such documentation shall be signed and include the date, time, and conditions found. Documentation shall be available for review by the Laboratory for the duration of the project.  
20. The Laboratory has a scaffold support system in place and therefore, will inspect for approval all scaffolds built by the contractor prior to use. No scaffolding shall be allowed without the Laboratory’s approval. The contractor must assign a trained and qualified scaffold competent person. If scaffolding is involved in a level 4 or 5, or above a walking/working surface, OSHA-compliant fall protection (29 CFR 1926 Subpart M) must be installed. Where applicable, may include the use of OSHA-compliant handrails.  
21. Electrical Protection  
   a. All new computer room electrical and data installations, from the feed to the termination at the equipment, shall be daily checked in accordance with the provisions of NFPA Article 645, even if the room does not meet all of the special requirements in 645.4.  
   b. Abandoned cables and associated equipment must be removed back to the power source. Cables designated for reuse must be properly terminated and labeled at both ends.  
   c. Panel boards must be marked with a number and location.  
   d. Electrical equipment must be secured to the electrical load.  
   e. Unlisted electrical utility equipment brought on-site by a contractor must be inspected by a DEETech Rep, IPS before use.  
   f. Temporary wiring must be installed so that it will create hazards. Wires that run across floors must have bridges over them to prevent physical damage and minimize the tripping hazard.  
22. Respiratory Protection  
   a. Workers are required to wear respirators, a written respiratory protection program must be included in the contractor’s ES&H Program and Implementation Plan as follows:  
      An initial, written respiratory protection program must be submitted for approval prior to using a respiratory protection device, such as full face or half face air purifying respirator.  
      1) Respirator protection program shall be modified and approved by a DEETech Rep, IPS before the equipment is introduced to the site.  
      2) Respirator equipment shall be properly labeled and informed to the employees.  
      3) All respirator equipment shall be tested.  
      4) Respirator equipment shall be properly maintained and stored.  
      5) Respirator equipment shall be stored and used by only its employees.  
      6) Respirator equipment shall be used by the employees.  
      7) Respirator equipment shall be used by the employees.  
      8) Respirator equipment shall be used by the employees.  
      9) Respirator equipment shall be used by the employees.  
23. M. Drug-Free Workplace  
   a. The Laboratory has a policy to maintain a drug-free workplace. The unlawful manufacture, distribution, dispensing, 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 employees will be subject to disciplinary action, including discharge.  
24. N. Contractor-Owned/Rented Trailers and Other Movable Structures  
   a. These requirements are only applicable to movable structures or trailers to be rented by contractor employees working at Argonne and used exclusively by the contractor and/or its employees. The contractor’s representative must be a current employee of the Laboratory (under the general direction of the Laboratory) and is subject to Laboratory inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.  
25. L. Disciplinary Program  
   a. The contractor is required to develop and implement a disciplinary program to control poor performance, misconduct, negligence, and safety violations by both its employees and that of any of its subcontractors. This program must be reflected in the contractor’s ES&H Program and Implementation Plan. The contractor should have a plan similar to the one described below. The Laboratory will enforce the plan, which includes disciplinary actions up to and including termination of the contractor.  
26. The Laboratory will issue verbal warnings to workers for safety infractions and will issue documented safety violations (Notice of Safety Violation – PFS-550) for more serious or continual infractions. The following progressive program will be implemented in sequential stages based on the extent of the safety violation.  
   a. Notification:  
      1) First Stage Notification  
      a. When a contractor employee is observed to be in a safety violation that is not significant, the employee shall be advised of the violation and the contractor’s ES&H representative will be notified of the incident.  
      b. Second Stage (Documented Safety Violation)  
      After receiving verbal notification, if a contractor employee is observed to be involved in the same safety violation, or an infraction that the employee should be cognizant of through work experience, a written notification will be sent to the contractor employee warning of a documented safety violation and the contractor’s ES&H representative will receive a copy of the violation.  
      c. Third Stage (Documented Safety Violation)  
      Upon receipt of a second documented safety violation, notifications as stated in Stage 2 above shall be continued, however, the contractor will be charged. The contractor shall have 24 hours to report to Laboratory to discuss the nature of the violations and the contractor’s corrective actions needed to avoid repeated unsafe work practices and the consequences thereof.  
      d. Fourth Stage (Documented Safety Violation)  
      Upon receipt of a third documented safety violation, the contractor employee will be required to return their Argonne gate pass and Construction Safety Orientation card to the Laboratory, and the contractor employee’s access to the Laboratory will be suspended for three working days. The contractor’s management will be notified of this suspension by the Laboratory’s Procurement Office. Prior to returning to work at the Laboratory, the contractor employee will be required to attend the Contractor Safety Orientation. In addition, contractor employees may be required to attend a meeting with Laboratory representatives prior to the employee being permitted access to the Laboratory.  
27. Stage (5 Sequential Safety Violations)  
   A subsequent documented safety violation of any nature will be cause to suspend the contractor employee’s access to the Laboratory until such time as the contractor employee will be cause for further suspension. Notification and conditions for granting return access to the Laboratory will be as described in Stage 4 above.  
28. Incident Management  
   a. Incident management is performed by the contractor’s Competent Person. These checks will be done daily.  
29. Material safety data sheets (MSDS)  
   a. MSDS are required to be available for all hazardous materials to be brought on-site by the contractor.  
30. Environmental Conditions  
   a. If any condition at the site poses a threat to the health and safety of employees or the environment, the contractor may be required to submit an Environmental Safety Improvement Plan (ES&I) to the Laboratory.  
31. Laboratory and Materials  
   a. Lab and materials are required to be stored and used by only its employees.  
32. Environmental Conditions  
   a. If any condition at the site poses a threat to the health and safety of employees or the environment, the contractor may be required to submit an Environmental Safety Improvement Plan (ES&I) to the Laboratory.  
33. Environmental Conditions  
   a. If any condition at the site poses a threat to the health and safety of employees or the environment, the contractor may be required to submit an Environmental Safety Improvement Plan (ES&I) to the Laboratory.
(4) Affect the continuing rights of the Laboratory after acceptance of the completed work under paragraph (i) below.
(d) The presence or absence of a Laboratory inspector does not relieve the contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the contract or to alter or waive any provision of the%_the Laboratory’s work.
(e) The contractor shall promptly furnish, without additional charge, all facilities, labor, and materials reasonably needed for performing such examinations and tests as may be required by the Laboratory. The Laboratory may change the contractor to one with a higher cost or, if the contractor is not capable of furnishing such facilities, the contractor shall promptly furnish all necessary facilities, labor, and materials. If the work is found to be defective or nonconforming in any material respect due to the fault of the contractor or its subcontractor, the contractor shall pay the cost of the examination and satisfactory reconstruction. However, if the work is found to meet contract requirements, the contractor shall make an equitable adjustment to the contractor, providing, if the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
(f) If the contractor does not promptly replace or correct rejected work, the Laboratory may (1) by contract or otherwise, replace or correct the work and charge the cost to the contractor or (2) terminate for default the contractor’s right to proceed.
(g) Unless otherwise specified in the contract, the Laboratory shall accept, as promptly as practicable after completion and inspection, all work required by the contractor or that portion of the work the Laboratory determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Laboratory’s rights under any warranty or guarantee.

65. MATERIAL AND WORKMANSHP (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 specified and provided in this contract. To the maximum extent practicable, the contractor shall use recycled products in the performance of this contract. The EPA Comprehensive Procurement Guidelines identifies products that use recycled material pursuant to 40 CFR 236. If the contractor shall flow this requirement down to lower tiered subcontractors, the event a contractor or subcontractor is unable to procure such products because the product is not available: (1) within a reasonable time; (b) at a reasonable price; c) within performance requirements, the contractor shall advise the Laboratory of the above. The Laboratory shall provide specifications, equipment, material, articles, or processes by which the contractor shall establish a standard of quality and shall not be construed as limiting competition. The contractor may, at its option, use any equipment, materials, or processes that may be established by the Laboratory.
(b) The contractor shall obtain the Laboratory’s approval of the machinery and mechanical 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 identification of any information concerning the performance, specifications, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Laboratory, the contractor shall also obtain the Laboratory’s approval of the materials and articles which the contractor contemplates incorporating into the work. When requesting approval, the contractor shall provide full information concerning the material or article.
(c) When directed to do so, the contractor shall give the Laboratory’s approval of the contractor’s expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall not be installed or used at the risk of subsequent rejection.
(d) 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 employees the Laboratory deems incompetent, careless, or otherwise objectionable.

66. MINIMUM WAGES UNDER EXECUTIVE ORDER 13665 (DEC 2014)
(a) Definitions. As used in this clause—“United States” means the 50 States and the District of Columbia. “Worker.”
(2) Includes workers working on or in connection with, the contract whose wages are calculated pursuant to special certificates issued under 29 CFR 219 or 213.
(3) Includes any person working on, or in connection with, the contract, and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor’s Employment and Training Administration, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.
(b) Executive Order Minimum Wage Rate.
(1) The Contractor shall pay to workers, while performing in the United States, and under contract on, or in connection with, a contract, a minimum hourly wage equal to $10.10 per hour beginning January 1, 2015.
(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016 and annually thereafter, to meet the Secretary of Labor’s annual E.O. minimum wage. The Administrator of the Department of Labor’s Wage and Hour Division (the Administrator) shall publish in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator may publish a non-applicable E.O. minimum wage on www.dol.gov (or any successor website) and on all wage determination issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The Wage Rate Requirements statute is defined by the appropriate wage rate is incorporated by reference in this contract.
(3) (i) The Contractor may make an annual adjustment prior to the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual number of employees, the E.O. minimum wage, or the cost of goods and services. Associated labor costs shall increase or decrease as a result of increases or decreases in social security taxes and workers’ compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.
(4) Subcontractors may be entitled to adjustments due to the new minimum wage pursuant to paragraph (b)(3)(ii).
(c) Contracting Officer. The contractors shall consider any subcontractor requests for such price increases.
(d) The contractor shall adjust the contract price under this clause if any costs associated with the additional labor costs and subcontractor costs, and not provide duplicate price adjustments with any price adjustment under clause (a) or any other clause.
(e) The Contractor shall not discharge any part of its minimum wage obligation under this clause by substituting its own employees or the employees of any other entity whose wages are governed by the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute.
(f) Nothing in this clause shall excuse the Contractor from compliance with any Federal or State prevailing wage law or any applicable Federal or State prevailing wage law or any applicable Federal or State prevailing wage law or any applicable Federal or State prevailing wage law.
(g) The Contractor shall follow the policies and procedures in 29 C.F.R. 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than $30.00 a month in tips.
(h) This clause applies to workers as defined in paragraph (a). As provided in that definition—
(i) Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the worker;
(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. section 213(b) and 219 C.F.R. part 541.
(i) Workers who are registered in a bona fide apprenticeship program or training program recognized by the Department of Labor, the Department of Labor’s Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered by this clause.
(j) This clause does not apply to—
(i) Federal Schedules Act (FSA)-covered individuals performing in connection with contracts covered by the E.O., i.e., those individuals who perform duties necessary to the performance of the contract, but who are not employed by the contractor, and who spend less than 20 percent of their hours worked in a week performing in connection with such contracts;
(ii) Individuals exempted from the minimum wage requirements of the FLSA (29 U.S.C. section 213(a) (i) and (b) (4)) and (b), unless otherwise covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. These individuals include, but are not limited to—
(A) Learning disabled individuals whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 219 (a).
(B) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b).
(C) Those employed in a bona fide executive, administrative, or professional capacity;
(D) Any employee performing work on, or in connection with, the contract of this contract, or any part thereof, which has been specifically exempted by the Administrator, or the Department of Labor, from this minimum wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, that can be obtained at www.dol.gov/whd/contracts, in a prominent and accessible place at the workplace. Contractors who customarily post notices to workers electrically, may, in addition to any other notice, post electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.
(e) Payroll Records.
(1) The Contractor shall make and maintain, for three years after completion of the work, containing the following information for each worker:
(i) Name, address, and social security number;
(ii) The worker’s occupation(s) or classification(s);
(iii) The rate or rates of wages paid;
(iv) The total number of hours worked for each pay period;
(v) Any deductions made; and
(vi) Total wages paid.
(2) The Contractor shall make records pursuant to paragraph (e) (1) of this clause available for inspection and transcription by authorized representatives of the Administrator, who shall have such access to the records and to the books of account and otherwise in the power of the Contractor to determine the wages, hours, and other terms and conditions of employment of the Contractor as to all employees employed by the Contractor. The Administrator shall also make such records available upon receipt of the Contracting Officer.
(3) The Contractor shall make a copy of the contract available, as applicable, for inspection by authorized representatives of the Administrator, who shall have such access to the records and to the books of account and otherwise in the power of the Contractor to determine the wages, hours, and other terms and conditions of employment of the Contractor as to all employees employed by the Contractor. The Administrator shall also make such records available upon receipt of the Contracting Officer.
(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 10.26, and the contractor may be subject to the actions consistent with the Administrator’s right to pursue any other remedies provided by law, including but not limited to, including but not limited to, the Administrator’s right to pursue any other remedies provided by law, including but not limited to, the Administrator’s right to pursue any other remedies provided by law for the purposes of this paragraph.
(f) Access. The Contractor shall permit authorized representatives of the Administrator to conduct investigations and inspections of the work performed under this contract during normal working hours.
(g) Withholding. The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld from the Contractor under this contract or any other Federal contract with the same Contractor, sufficient to pay back, in full, any Federal funds that have been overpaid.
(h) Dismissal. Department of Labor has set forth in 29 CFR 10.51, Dismisses causing a contractor from compliance with the law with the Department of Labor’s Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered by this clause.
(i) Interim. The Contractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to this clause.
be instituted any proceeding under or related to compliance with the E.O. or this clause, and that no deductions have been made either directly or indirectly from the full weekly wages earned, or received by the subcontractor as required for making such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

71. PERMITS AND RESPONSIBILITIES (NOV 1991)
The contractor shall, without additional expense to the Laboratory, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The contractor shall also be responsible for all damage to persons or property that occur as a result of the contractor's fault or 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 damages inflicted upon or resulting from any work performed by the contractor or any subcontractor for the entire work, except for any completed unit of work which may have been accepted under the contract.

72. PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)
(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not reasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that does not impede access to the work. If any branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-healing compound. The Contractor shall also protect all existing or proposed underground structures, equipment, utilities, and fixed improvements from damage.
(b) The Contractor shall protect from damage all existing improvements and utilities (1) at or near the work site on land owned or leased by the Government, and (2) on adjacent property of a third party, the locations of which are known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this paragraph, and shall exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

73. REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS—BUY AMERICAN STATUTE—CONSTRUCTION MATERIALS (MAY 2014)
(a) Definitions. As used in this clause—
(1) “Component” means an article, material, or supply incorporated directly into a construction material.
(2) “Construction material” means an article, material, or supply brought to the construction site by the Contractor, a subcontractor for incorporation into the building or work. The term also includes any item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and radio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of the number of components or how the individual parts or components of those systems are delivered to the construction site.
(3) “Domestic construction material” means the following:
(i) Any material that is unmanufactured or unprocessed and produced in the United States.
(ii) Any manufactured construction material that is manufactured in the United States and, if the construction material consists wholly or predominantly of iron or steel, the iron or steel was produced in the United States. (Section 1605 of the Recovery Act applies.)
(iii) “Foreign construction material” means a construction material other than a domestic construction material.
(4) “Manufactured construction material” means any construction material that is not unmanufactured or unprocessed.
(5) “Steel” means an alloy that includes at least 50 percent iron, between 0.2 and 2 percent carbon, and may include other elements.
(ii) “Unmanufactured construction material” means raw material brought to the construction site for incorporation into the building or work that has not been—

74. PAYROLLS AND BASIC RECORDS (MAY 2014)
(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 employees working at the site of the work. The payroll shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 42 U.S.C. 3141(2)(B) (Construction Wage Rate Requirement statute)], daily and weekly number of hours worked, and wages earned. The information required under paragraph (d) of the clause entitled Construction Wage Rate Requirement statute)] is to be maintained for the entire period of the contract. The information required under paragraph (e) of the clause entitled Construction Wage Rate Requirement statute)] is to be maintained for the entire period of the contract. The information required under paragraph (d) of the clause entitled Construction Wage Rate Requirement statute)] is to be maintained for the entire period of the contract. 
(b) The Contractor shall submit weekly for each week in which any contract work is performed a pay roll report to the Laboratory. The pay rolls submitted shall show out and completely all of the information required to be maintained under paragraph (a) of this clause, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee
(b) Domestic preference.

(1) This clause applies—

(ii) Section 1605 of the American Recovery and Reinvestment Act of 2009 (Recovery Act, Pub. L. 111-5), by requiring, unless an exception applies, that all manufactured construction material in the project is manufactured in the United States and, if the construction material consists wholly or predominantly of iron or steel, the iron or steel was produced in the United States (produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, except for the metalurgical processes involving refinement of steel additives); and

(ii) 41 U.S.C. chapter 63, Buy American, by providing a preference for unmanufactured construction material mined or produced in the United States over unmanufactured construction material mined or produced in a foreign country.

(2) The contractor shall use only domestic construction material in performing this contract, except as provided in paragraph (b)(3) and (b)(4) of this clause.

(3) This requirement does not apply to the construction material or components listed by the Government as follows.

(4) The Contractor may add other foreign construction material to the list in paragraph (b)(3) of this clause if the contractor certifies that—

(i) The cost of domestic construction material would be unreasonable,

(ii) The cost of domestic construction material would be unreasonable when compared to the cost of comparable foreign manufactured construction material, or

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

(c) Request for determination of inapplicability of Section 1605 of the Recovery Act or the Buy American statute.

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) 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) Cost.

(ii) The request shall be submitted in a reasonable manner and shall be either in writing or submitted by electronic mail.

(iii) The cost of construction material shall include all delivery costs to the construction site and any applicable duty.

(iv) Any request for a determination submitted after award contract shall explain why the Contractor could not reasonably foresee the need for such construction material and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to Section 1605 of the Recovery Act or the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow the use of foreign construction material. However, when the basis for the exception is the unreasonable cost of a domestic construction material, adequate consideration is the reasonable cost of the foreign construction material established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines otherwise, an exception to section 1605 of the Recovery Act or the Buy American statute applies, use of foreign construction material is noncompliant with section 1605 of the American Recovery and Reinvestment Act or the Buy American statute.

(d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the supply of materials:

<table>
<thead>
<tr>
<th>Material</th>
<th>Description</th>
<th>Unit of Measure</th>
<th>Quantity</th>
<th>Cost (Dollars)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item 1:</td>
<td>Foreign construction material</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item 2:</td>
<td>Domestic construction material</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The contractor shall, within five (5) business 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 severest or most critical work (including acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date and/or the period of time the contractor fails to submit a schedule within the time prescribed, the Laboratory may withhold approval of progress payments until a scheduled is furnished.

(b) The contractor shall enter the actual progress on the chart as directed by the Laboratory, and upon doing so shall immediately deliver three copies of the annotated schedule to the Laboratory. If, in the opinion of the Contractor or the Laboratory, the schedule is inadequate or not in accordance with the approved schedule, the contractor shall take steps necessary to improve its progress, including those steps which may be required to be submitted to the Laboratory. In this circumstance, the Laboratory may require the contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit or approval any supplementary or schedule amendments in such a form as the Laboratory deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the contractor to comply with the requirements of the Laboratory under this clause shall be grounds for a determination by the Laboratory that the contractor is not progressing the work in sufficient diligence to ensure compliance with the time specified in the contract. Upon making this determination, the Laboratory may terminate the contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

7. SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has acquiesced in and satisfied itself as to the general and local conditions which can affect the work or its cost, including, but not limited to, the following: bearing upon transportation, disposal, handling, and storage of materials; (2) the availability of labor, water, electric power, and loads; (3) uncertainties of weather, river stages, tides, or similar physical conditions at the site; (4) the conflation and conditions of the terrain; and (5) the nature and condition of the facilities needed preliminary to and during work performance. The contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered in performance of the work and is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Laboratory, as well as any exploration made as 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 adequately performing property in the performance of the work and its cost, or for successfully completing the work, or for proceeding to successfully perform the work without additional expense to the Laboratory.

(b) The Laboratory assumes no responsibility for any errors or interpretations made by the contractor based on the information made available by the Laboratory. Nor does the Laboratory assume responsibility for any understanding reached or representation made concerning conditions which can affect the work or any separable part of it, in accordance with the default terms of this contract, unless that understanding or representation is expressly stated in this contract.

7. SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(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 shall not be considered as part of the work and shall not be the subject of claims and disputes. The contractor shall keep copies of the drawings and specifications and any other documentation and information which he/it is required to maintain during the period the drawings and specifications are used or modified by the contractor.

(b) Wherever in the specifications or upon the drawings the words "directed," "required," "ordered," "designated," "prescribed," or words of like import are used, it shall be understood that the Contractor is to perform, or to provide the subject of the "prescription," of the Laboratory is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Laboratory, unless otherwise expressly stated.

(c) Where "as shown," "as indicated," or "as detailed," or words of similar import are used, it shall be understood that the Contractor is to perform, or to provide the subject of the "prescription," of the Laboratory is intended and similarly the words "approved," "acceptable," "satisfactory," or words of like import shall mean "approved by," or "acceptable to," or "satisfactory to" the Laboratory, unless otherwise expressly stated.

(d) Shop drawings means drawings submitted to the Laboratory by the contractor, subcontractor, any lower tier subcontractor pursuant to a construction contract, showing in detail the drawings, specifications, and (2) the drawings or the installation (i.e., form, fit, and attachment details) of materials of equipment. It includes drawings, diagrams or similar materials, schematics, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail the specifications of portions of the work required by the contract. The Laboratory may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereof as evidence of such coordination and review. Shop drawings submitted to the Laboratory without evidence of contractor's approval may be returned for resubmission. The Laboratory will either indicate an approval or disapproval of the shop drawings and an agreement as approved as submitted shall indicate the Laboratory's reasons therefore. Any work done before such approval shall be at the contractor's risk. Approval by the Laboratory shall not relieve the contractor from responsibility for any errors or omissions or for any other requirements of this contract, not including the contractor's responsibilities for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) 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 requires any such change, the contractor shall provide one set of shop drawings together with the request for modification, except that, if the variation is minor or does not involve a change in price or time of performance, a modification need not be issued.

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

(h) All changes and revisions made to the drawings shall be at the expense of the Contractor.

7. SUBCONTRACTS (LABOR STANDARDS) (MAY 2014)

(a) Definition. “Construction, alteration or repair,” as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—
82. USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Laboratory shall have the right to take possession of or use any completed or partially completed part of the work designated in the clause. 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 intends to take possession of or use. However, the Laboratory shall not list any item of work that shall not be released to the contractor of responsibility for complying with the terms of the contract. The Laboratory’s possession of use of the work shall not affect the contractor’s responsibility to perform the contract. Prior to release of the work, the contractor shall be held liable for the loss of or damage to the work resulting from the contractor’s possession or use. If the contractor fails to remedy any defects, or satisfy 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.

83. WARRANTY OF CONSTRUCTION (APR 1984)

(a) In addition to any other warranties in this contract, the contractor warrants, except as provided in paragraph (j) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of one year from the date of final acceptance of the work. If the Laboratory takes possession of any part of the work before final acceptance, this warranty shall continue for a period of one year from the date the Laboratory takes possession of said work.

(c) The contractor shall remedy at the contractor’s expense any failure to conform, or any defect in addition, to the extent of any deviation in the warranty. In determining the terms of the warranty, the Laboratory shall have the right, after receiving notice, to reject work furnished by the contractor.

(d) With respect to all warranties, express or implied by the subcontractors, manufacturers, 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.

84. WITHHOLDING OF FUNDS (MAY 2014)

The Laboratory Procurement Official shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any subcontractor, any portion of the amount of funds required which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary by the Laboratory to pay laborers and mechanics, including apprentices, trainees, helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, helper, or employee employed on the site of the work, all or part of the wages required by the contract, the Laboratory Procurement Official 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.

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

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

3. Participate as appropriate in development and review of those DOE Technical Standards where the contractor has technical or programmatic interests, or will be affected by the content of DOE Technical Standards under development, or as directed by the Contracting Office.
Section III - Argonne National Laboratory Requirements

85. APPLICABLE LAW (OCT 1999)
   To the extent that Federal law does not exist and State law could become applicable to this contract, the law of Illinois shall apply.

86. INTEGRATION CLAUSE (MAY 2001)
   This contract represents the full understanding of the parties and is the entire agreement between the parties. All negotiations between the parties have been merged into the contract, and there are no understandings or agreements other than those incorporated into this contract.

87. 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 action has arisen, whichever occurs first, otherwise the contractor shall be barred from pursuing such action.

88. NON-WAIVER OF DEFAULTS (OCT 1999)
   Any failure by the Laboratory at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this contract shall not constitute a waiver of such terms or conditions and shall not affect or impair such terms or conditions in any way, nor the right of the Laboratory at any time to avail itself of such remedies as it may have for any breach or breaches of such terms or conditions.

89. 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.

90. REPORTS (OCT 1997)
   The contractor shall furnish intermediate reports to the Laboratory from time to time when requested, in such form and number as may be required by the Laboratory, summarizing activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

91. 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 under this contract, contractor agrees to obtain and maintain appropriate levels of automobile liability coverage for property damage and bodily injury and such insurance shall be primary.
# Suspect/Counterfeit Bolt Headmark List

Any bolt on this list should be treated as defective without further testing.

<table>
<thead>
<tr>
<th>Grade 5 fasteners of foreign origin which do not bear any manufacturers’ headmarks:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grade 5</td>
</tr>
</tbody>
</table>

### Grade 5 fasteners with the following manufacturers’ headmarks:

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

### Grade 8 fasteners with the following manufacturers’ headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Asahi Mfg. (JP)</td>
</tr>
<tr>
<td>NF</td>
<td>Nippon Fasteners (JP)</td>
</tr>
<tr>
<td>H</td>
<td>Hinomoto Metal (JP)</td>
</tr>
<tr>
<td>M</td>
<td>Minamida Siyobo (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
</tr>
<tr>
<td>Hollow Triangle</td>
<td>Infasoo (CA, TW, JP, and YU) (Greater than 1/2-inch diameter)</td>
</tr>
<tr>
<td>E</td>
<td>Daiel (JP)</td>
</tr>
</tbody>
</table>

### Grade 8.2 fastener with the following headmark:

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

### Grade A325 fasteners (BENNERT DENVER TARGET ONLY) with the following headmarks:

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

Headmarkings are usually raised – sometimes indented.

*KEY: CA-Canada, JP-Japan, TW-Taiwan, YU-the former Yugoslavia
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, said standards shall be consistent with those promulgated under the Occupational Safety and Health Act of 1970, Public Law 91-596. Please refer to DOE O 440.1A for details.

DOE Contractors:

DOE has determined that Argonne National Laboratory is subject to DOE Acquisition Regulation (DEAR), Subpart 970.23, and is, therefore, required to comply with applicable DOE-prescribed Occupational Safety and Health Administration (OSHA) standards listed herein. This Order and the standards are available for employee review at Argonne Site Office Building 201.

As detailed 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 counterfeit item 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, on 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 imminent 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 organization’s 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 800-701-9966, 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 responsible manner.

Nondiscrimination:

No contractor shall discharge or in any manner discriminate against any employee by virtue 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 law, 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 it, and to refuse to engage in illegal or dangerous activities without fear of employer retaliation. 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:

Chicago Office
(DOE Office)

Attn: Employee Concerns Manager
9800 S. Cass Avenue
(P.O. Box or Street Address)
Lemont, IL 60439
(City, State and Zip Code)

Posting Requirements:

Copies of this notice must be posted in a sufficient number of places in Government-owned plants and facilities operated by DOE contractors subject to DOE Acquisition Regulation (DEAR), Subpart 970.23 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.