## APPENDIX A

### ARGONNE TERMS AND CONDITIONS

(For Fixed Price Architect-Engineer Contracts)

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Displaced Employee Hiring Preference (Jun 1997)</td>
<td>2</td>
</tr>
<tr>
<td>2.</td>
<td>Covenant Against Contingent Fees (May 2014)</td>
<td>2</td>
</tr>
<tr>
<td>3.</td>
<td>Equal Opportunity (Apr 2015)</td>
<td>2</td>
</tr>
<tr>
<td>4.</td>
<td>Employment Reports On Veterans (Feb 2016)</td>
<td>2</td>
</tr>
<tr>
<td>5.</td>
<td>Equal Opportunity For Veterans (Oct 2015)</td>
<td>2</td>
</tr>
<tr>
<td>8.</td>
<td>Employment Eligibility Verification (Oct 2015)</td>
<td>3</td>
</tr>
<tr>
<td>9.</td>
<td>Equal Opportunity For Workers With Disabilities (Jul 2014)</td>
<td>3</td>
</tr>
<tr>
<td>10.</td>
<td>Information Technology Acquisitions (March 2009)</td>
<td>4</td>
</tr>
<tr>
<td>11.</td>
<td>Security (Deviation) (Mar 2011)</td>
<td>4</td>
</tr>
<tr>
<td>12.</td>
<td>Classification/Declassification (Sep 1997)</td>
<td>4</td>
</tr>
<tr>
<td>15.</td>
<td>Efficiency In Energy-Consuming Products (Dec 2007)</td>
<td>5</td>
</tr>
<tr>
<td>16.</td>
<td>Preference For U.S. Flag Air Carriers (Jun 2003)</td>
<td>5</td>
</tr>
<tr>
<td>17.</td>
<td>Preference For Privately Owned U.S. – Flag Commercial Vessels (Feb 2006)</td>
<td>5</td>
</tr>
<tr>
<td>19.</td>
<td>Small Business Subcontracting Plan (Apr 2016)</td>
<td>6</td>
</tr>
<tr>
<td>20.</td>
<td>Providing Accelerated Payments To Small Business Subcontractors (Dec 2013)</td>
<td>7</td>
</tr>
<tr>
<td>21.</td>
<td>Termination For Convenience Of The Laboratory (Oct 1999)</td>
<td>7</td>
</tr>
<tr>
<td>22.</td>
<td>Reports (Oct 1999)</td>
<td>7</td>
</tr>
<tr>
<td>23.</td>
<td>Subcontractor Cost Or Pricing Data (Oct 2010)</td>
<td>7</td>
</tr>
<tr>
<td>24.</td>
<td>Subcontractor Cost Or Pricing Data--Modifications (Oct 2010)</td>
<td>7</td>
</tr>
<tr>
<td>25.</td>
<td>Price Reduction For Defective Certified Cost Or Pricing Data (Aug 2011)</td>
<td>7</td>
</tr>
<tr>
<td>26.</td>
<td>Price Reduction For Defective Certified Cost Or Pricing Data—Modifications (Aug 2011)</td>
<td>8</td>
</tr>
<tr>
<td>27.</td>
<td>Responsibility Of The Architect-Engineer Contractor (Oct 1999)</td>
<td>8</td>
</tr>
<tr>
<td>28.</td>
<td>Design Within Funding Limitations (Oct 1999)</td>
<td>8</td>
</tr>
<tr>
<td>29.</td>
<td>Work Oversight In Architect-Engineer Contracts (Oct 1999)</td>
<td>8</td>
</tr>
<tr>
<td>30.</td>
<td>Requirements For Registration Of Designers (June 2003)</td>
<td>8</td>
</tr>
<tr>
<td>31.</td>
<td>Key Personnel (Dec 2000)</td>
<td>8</td>
</tr>
<tr>
<td>32.</td>
<td>Inspection (Oct 1999)</td>
<td>8</td>
</tr>
<tr>
<td>33.</td>
<td>Changes--Fixed Price (Oct 1999)</td>
<td>8</td>
</tr>
<tr>
<td>34.</td>
<td>Suspension Of Work (Oct 1999)</td>
<td>8</td>
</tr>
<tr>
<td>35.</td>
<td>Assignment And Subcontracting (Oct 1999)</td>
<td>9</td>
</tr>
<tr>
<td>36.</td>
<td>Subcontracts For Commercial Items (Feb 2016)</td>
<td>9</td>
</tr>
<tr>
<td>37.</td>
<td>Contract Work Hours And Safety Standards Act – Overtime Compensation (May 2014)</td>
<td>9</td>
</tr>
<tr>
<td>38.</td>
<td>Permits Or Licenses (Oct 1999)</td>
<td>9</td>
</tr>
<tr>
<td>39.</td>
<td>Federal, State, And Local Taxes (Apr 2003)</td>
<td>9</td>
</tr>
<tr>
<td>40.</td>
<td>Termination (Fixed-Price Architect-Engineer) (Apr 1984)</td>
<td>9</td>
</tr>
<tr>
<td>41.</td>
<td>Anti-Kickback Procedures (May 2014)</td>
<td>9</td>
</tr>
<tr>
<td>42.</td>
<td>Restriction On Certain Foreign Purchases (Jun 2008)</td>
<td>10</td>
</tr>
<tr>
<td>43.</td>
<td>Restrictions On Subcontractor Sales To The Government (Sep 2006) – Applicable To Contracts Which Exceed $100,000</td>
<td>10</td>
</tr>
<tr>
<td>44.</td>
<td>Limitation On Payments To Influence Certain Federal Transactions (Oct 2010)</td>
<td>10</td>
</tr>
<tr>
<td>47.</td>
<td>Whistleblower Protection For Contractor Employees (Dec 2000)</td>
<td>11</td>
</tr>
<tr>
<td>48.</td>
<td>Contractor Employee Whistleblower Rights And Requirement To Inform Employees Of Whistleblower Rights (Apr 2014)</td>
<td>11</td>
</tr>
<tr>
<td>49.</td>
<td>Protection For Contractor Employees (Dec 2000)</td>
<td>11</td>
</tr>
<tr>
<td>50.</td>
<td>Protecting The Government’s Interest When Subcontracting With Contractors Debarred, Suspended, Or Proposed For Debarment (Oct 2015)</td>
<td>11</td>
</tr>
<tr>
<td>51.</td>
<td>Combating Trafficking In Persons (Mar 2015)</td>
<td>11</td>
</tr>
<tr>
<td>52.</td>
<td>Laboratory Site Access And /Or Participation In Activities By Non-U.S. Nationals (Dec 2004)</td>
<td>12</td>
</tr>
<tr>
<td>53.</td>
<td>Compliance With Export Control Laws And Regulations (Nov 2015)</td>
<td>12</td>
</tr>
<tr>
<td>55.</td>
<td>Export Control Information For Foreign Travel (Nov 2002)</td>
<td>13</td>
</tr>
<tr>
<td>56.</td>
<td>Conflicts Of Documentation (May 2001)</td>
<td>13</td>
</tr>
<tr>
<td>57.</td>
<td>Rights To Proposal Data (May 2001)</td>
<td>13</td>
</tr>
<tr>
<td>58.</td>
<td>Environmental Protection (May 2001)</td>
<td>13</td>
</tr>
<tr>
<td>60.</td>
<td>Limitations Period (May 2001)</td>
<td>13</td>
</tr>
<tr>
<td>63.</td>
<td>Integration Clause (May 2001)</td>
<td>13</td>
</tr>
<tr>
<td>64.</td>
<td>Technical Standards Program (Feb 2011)</td>
<td>13</td>
</tr>
<tr>
<td>65.</td>
<td>Suspect Counterfeit Parts (Dec 2007)</td>
<td>13</td>
</tr>
</tbody>
</table>
1. DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

(a) Definition. Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, terminated, or is scheduled to be terminated, by more than 120 days, by the contractor or subcontractor with whom the employee has a bona fide employment relationship, or (2) who has also met the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the particular position is available.

(b) Consistent with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that it will provide qualified displaced employees with opportunities to compete for employment in an effort that is not in conflict with the other terms and conditions of the contract under which the displaced employee is employed.

(c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed $500,000.00.

2. COVENANT AGAINST CONTINGENT FEES (MAY 2014)

(a) The contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract or take any other action permitted by law, without prejudice to the rights and remedies of the United States, and to recover any amount paid and any amount otherwise owed to the contractor.

(b) ‘Bona fide employee,’ as used in this clause, means an established commercial or selling agency maintained by a contractor for the purpose of procuring business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

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

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be determined by the General Services Administration.

(e) The number of veterans reported must be based on data known to the contractor when the report is submitted, or, if the contractor determines that the data is not available or accurate, on data that is known to be the best available data.

(f) The Contractor shall submit VETS-4212 Reports no later than September 30 of each year.

3. 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/regs/compliance/guidance/frc/docs/Guidance/qt/GGBT-GFAC.htm.

(b) “Sexual orientation” has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.


(d) The Contractor shall submit VETS-4212 Reports no later than September 30 of each year.

4. EMPLOYMENT REPORTS ON VETERANS (FEB 2016)

(a) Definitions. As used in this clause, “active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” and “recently separated veteran,” have the meanings given in FAR 21.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by Equal Opportunity (EOO) statutes and 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.

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

5. EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

(a) Definitions. As used in this clause—

(i) “Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” and “recently separated veteran,” have the meanings given in FAR 21.1301.

(ii) “Executive Order 11246” or “EO 11246” means the Executive Order dated June 25, 1969, as may be amended by Executive Order 13496 or any successor executive order.

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

(b) The Contractor shall take affirmative action to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(c) The Contractor shall take affirmative action to assure that qualified applicants will receive consideration for employment and that qualified employees will receive consideration for promotion, to the extent that no covered disability exists.

6. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496: (APRIL 2010)

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

Federal contractors and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector. See 29 CFR Part 41. The notice, prescribed in the Department of Labor’s regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively with their employers and to engage in other concerted activity. The notice also describes the procedures employees can use to file complaints and the procedures the agency will follow for enforcing the NLRA. Federal contractors and subcontractors are required to post the prescribed employee notification conspicuously in public areas in the workplace, including all places where notices to employees are customarily posted both physically and electronically. Obtaining Copies of the Notice of Employee Rights

Executive Order 13496 Notice of Employee Rights in Adobe Reader (.pdf) format, can be downloaded from the link. Federal contractors may also reproduce and use exact copies of the official Notice.

Notices of Employee Rights Under Federal Labor Laws - 11x17-inch one-page format (PDF)

Notices of Employee Rights Under Federal Labor Laws - 11x5.5-inch two-page format (PDF)
7. NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

Applies To Contracts That Exceed $10,000 In Value

(i) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content prescribed by the Secretary of Labor, in conspicuous places in and about the plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including places in and about the plants and offices where notices to employees are customarily posted both physically and electronically, in the languages employed speak, in accordance with 29 CFR 471.21(d) and 471.21(e).

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

(iii) If the Contractor customarily posts notices to its employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about matters affecting the terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (iii), shall read, "Information About Employee Rights to Organize and Bargain Collectively With Their Employers.

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


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

(3) Downloaded from the "Office of Labor-Management Standards Web site at web:www.dol.gov/olmsregs/compliance/E035846.htm; or

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

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

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

(e) In the event that the registrant does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended until such time as the contractor is in compliance with the regulations of the National Labor Relations Board of the Department of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

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

8. EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)

(a) Definitions. As used in this clause—

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

(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition at 22.301);

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

(iii) Offered to the Government, without modification, in the same form in which it is sold in commercial transactions.

(2) Does not include bulk cargo, as defined in 48 U.S.C. 10101(d), such as agricultural products and petroleum products. Per 46 CFR 252.5[32]: "Bulk cargo" means cargo that is loaded and carried in bulk onboard a vessel and that is unpackaged, or that is so unpackaged, having homogenous characteristics. Bulk cargo loaded into intermediate equipment, except LASH or intermodal equipment, is subject to mark and count requirements of the E-Verify program.

"Employee"—

"Employee" means an employee who is hired by the Contractor on or after November 27, 2009, to perform work in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 4 of the Immigration Reform and Control Act of 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of—

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operator of the Contractor's decision to exercise this option.

"Subcontractor" means any supplier, distributor, vendor, or firm that furnishes supplies or services for performance of a prime contract or a subcontract. It includes normally performs support work, such as indirect or overhead functions; and

(ix) Any other term, condition, or privilege of employment.

(b) Postings.

(1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract or subcontracting arrangement.

(2) The Contractor agrees to post employment notices stating—

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) Any other term, condition, or privilege of employment.

(c) The Contractor shall also post the required notice electronic ally by displaying prominently, on any Web site that is maintained by the Contractor and is customarily used for notices to employees about matters affecting the terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (c), shall read, "Important Notice to Employees About Federal Contractor Subprime Employment Verification System" in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(d) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (c) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must respond to E-Verify.

(e) The Contractor shall provide access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(f) Have a value of more than $3,500; and

(g) Includes work performed in the United States.

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

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

(a) General.

(1) Regarding any provision for which the employee or applicant for employment is required to be "qualified", the Contractor shall so define "qualified" only by reference to physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities in a manner which does not discriminate against such individuals because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities in a manner which does not discriminate against such individuals because of physical or mental disability in all employment practices such as—

(i) Recruitment by any means of advertising for employment; job application procedures;

(ii) Employment, advancement, compensation, and termination of employment, including fringe benefits, and terms, conditions, and privileges of employment; and selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence for pursuit of training.

(2) The Contractor agrees to comply with the rules, regulations, and other relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 794) (the Act).

(3) The Contractor shall notify the local labor or representative of workers with which it has a collective bargaining agreement or any other contract under which the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with physical or mental disabilities.

(b) Noncompliance. If the Contractor does not comply with the requirements of this clause, these appropriate actions may be taken under the rules, regulations, and other orders of the Secretary issued pursuant to the Act.

(c) 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
11. SECURITY (DECEMBER 2009)

Responsibility. It is the Contractor’s duty to protect all classified information, special nuclear material, and DOE property. The Contractor shall comply with DOE regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor’s possession or under the Contractor’s control, and shall meet the security responsibilities and requirements in the contract. The Contractor shall, upon completion or termination of a contract, transmit to DOE or its successor, or to any other DOE property or classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor’s control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion of the contract, the Contractor shall identify the items and classification levels and categories of matter proposed for retention, the reasons for their retention, and the proposed retention period. Upon approval by the Office of Technology Security, the security provisions of the contract shall continue to be applicable to the classified matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.

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

12. CLASSIFICATION/DECLASSIFICATION (SEP 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy’s regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this classification of information, documents, or material, “material” means a product or substance which is manufactured, or utilized in the manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in a nuclear reactor; and “medium” means a material on or in which information is recorded; and “material” means a product or substance which is manufactured, or utilized in the manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in a nuclear reactor.

The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed by a DOE access authorization. A DOE access authorization is required in accordance with classification regulations including mandatory DOE directives and documents classified according to the classification of information, documents, or material. Any document or material containing classified information is reviewed by a DOE access authorization. A DOE access authorization is required in accordance with classification regulations including mandatory DOE directives and documents classified according to the classification of information, documents, or material.
16. PREFERENCE FOR U.S. FLAG AIR CARRIERS [JUN 2003]
(a) Definitions. As used in this clause -- international air transportation means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
(U.S.-flag air carrier) means an air carrier holding a certificate under 49 U.S.C. Section 411.
(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 41102) requires that all Federal agencies and departments of the United States purchasing air transportation, including transportation on air carriers for international transportation, shall purchase air transportation services exclusively from U.S.-flag air carriers.
(c) Unless otherwise approved in writing by the Contracting Officer, the Contractor shall use U.S.-flag carriers for all transportation of goods or services and for all other transportation services required by the government, except those transportation services required by the contractor for personal travel of its employees.
(d) The Contractor shall notify the Office of Contracting of the Contractor's intent to use transportation services other than those provided by U.S.-flag air carriers.
(e) The Contractor may use foreign-flag air carriers for transportation services which are not otherwise available from U.S.-flag air carriers.
17. PREFERENCE FOR PRIVATELY OWNED U.S. -- FLAG COMMERCIAL VESSELS [FEB 2006]
(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appx 13101-13108) requires that Federal agencies and departments of the United States purchase primary and secondary commodities under the conditions set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.
(b) The Contractor shall purchase primarily 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 cargo, liquid cargo, and tankers) whenever shipping any equipment, materials, or commodities, that may be transported in ocean vessels (computed separately for dry bulk cargo, liquid cargo, and tankers) whenever shipping any equipment, materials, or commodities, that may be transported in ocean vessels.
(c) The Contractor shall use vessels that are U.S.-flag commercial vessels.
(d) The Contractor shall submit a legible copy of a signed bill of lading or charter party for each shipment of cargo or services under this contract, and the Contractor shall itemize and describe the goods or services.
(e) The Contractor shall submit a copy of the bill of lading or charter party, or the equivalent, for each shipment of cargo or services under this contract.
(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:
Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-366-2324
18. 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.
This clause does not apply to small business concerns.

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

(b) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately 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 is soliciting a contract for which 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 is required. The offeror shall include 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.

(c) *Subcontract* means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

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

1. A statement of-
   (i) Goals, expressed in terms of percent of subcontracted dollars, for 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 as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services, HUBZone small business concerns are normally allocated as indirect costs. In accordance with 25 U.S.C. 1452(c).
   (ii) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe. ANC, as defined in 25 U.S.C. 1452(e).
   (iii) Where one or more subcontracts are in the same contract tier between the prime contractor and the subcontractor, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards the small business and small disadvantaged business subcontracting goals.
   (iv) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.
   (v) If the ANC or Indian tribe is designated by more than one Contractor to count the subcontract towards its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract amount to each Contractor. The sum of the amounts designated by the ANC or Indian tribe cannot exceed the total value of the subcontract.
2. A statement of-
   (i) Total dollars planned to be subcontracted for an individual contract award, or the offeror’s total projected subcontracted dollars (including ANC and Indian tribes), in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
   (ii) Total dollars planned to be subcontracted to small business concerns (including ANCs and Indian tribes) or subcontractors, as the case may be;
   (iii) Total dollars planned to be subcontracted to service-disabled veteran-owned small business concerns;
   (iv) Total dollars planned to be subcontracted to HUBZone small business concerns;
   (v) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
   (vi) Total dollars planned to be subcontracted to women-owned small business concerns.
3. A description of the principal types of supplies and services to be subcontracted, and an identification of the types of supplies 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;
   (vii) Small disadvantaged business concerns; and
   (vii) Women-owned small business concerns.
4. A description of the method used to develop the subcontracting goals in paragraphs (c)(1) through (3) of this clause.

5. A description of the method used to identify potential sources for solicitations purposes (e.g., existing company records, past history of subcontracting or prime awards, data from Small Business Administration, minority or Service-Disabled Veteran-Owned Small Business concerns, available data from Dun & Bradstreet, Inc., the System for Award Management, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in 4.14, or the equivalent representation of a national, regional, or local size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business prime contractor. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

6. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with small business concerns (including ANCs and Indian tribes);
A commercial plan is the preferred type of subcontracting plan for contractors furnishing
the failure of the Contractor or subcontractor to comply in good faith with-
awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards
will be considered by the Contracting Officer in determining the responsibility of the offeror
Government will not require another subcontracting plan from the same Contractor while the
paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan.
(3) Goals and any deviations from the master plan deemed necessary by the Contracting
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
of dollars attributable to each agency from which contracts for commercial items were received.
The authority to acknowledge or reject SSRS for commercial plans resides with the Contracting Officer who approved the commercial plan.
without notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small business, woman-owned small business, or other small business concerns.
the purpose of obtaining a subcontract that is to be included as part of all or a goal of contained in the Contractor’s subcontracting plan.
For all competitive subcontractors over the simplified acquisition threshold in which a
Prior compliance of the offeror with other such subcontracting plans under previous contracts
made to lower tier subcontractors, unless the Contractor or subcontractor has been
the successful subcontract offeror, the Contractor must inform each unsuccessful
if awarded the subcontract.
the successful subcontract offeror, the Contractor shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract should contain a signature page which will identify the persons preparing the report and the persons approving the report.
SUBCONTRACTOR COST OR PRICING DATA (OCT 2010)
SUBCONTRACTOR COST OR PRICING DATA–MODIFICATIONS (OCT 2010)
PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (AUG 2011)
20. PROVING 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 possible, consistent with the requirements in FAR 52.230-4, Subcontractor Payment, 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 any new rights with the Prompt Payment Act.
(c) Include the substance of this clause, including this paragraph (c), in all subcontract agreements with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.
21. TERMINATION FOR CONVENIENCE OF THE LABORATORY (OCT 1999)
22. REPORTS (OCT 1999)
23. SUBCONTRACTOR COST OR PRICING DATA (OCT 2010)
(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later, the Contractor shall certify that the subcontractor was not previously awarded a subcontract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4.
(b) The Contractor shall require the subcontractor to certify substantially in the form prescribed in FAR 15.406-2 that, before entering into the subcontract, the dollar amount of any contingencies included in the price, unless an exception under FAR 15.403-6 applies.
24. SUBCONTRACTOR COST OR PRICING DATA—MODIFICATIONS (OCT 2010)
(a) The requirements of paragraphs (b) and (c) of this clause shall—
(b) The Contractor shall require the subcontractor to certify substantially in the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause are, complete and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
(c) The Contractor shall inform the small business concern of the right to call for correction of the pricing data; and
(d) The Contractor shall consider the size and nature of any contingencies included in the price.
25. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (AUG 2011)
(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—
(b) If the 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;
(c) The contractor cost 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
(d) 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.
(e) Any reduction in the contract price under paragraph (a) of this clause due to defective cost or pricing data shall be limited to the amount, plus 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 amount of the adjustment to the Contractor provided for in the contract, provided that the actual subcontract price was not itself affected by defective certified cost or pricing data.
(f) The contractor cost 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
(g) 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.
(h) The Contractor shall agree 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 lowered, all competitive, complete, and current certified cost or pricing data had been submitted.
(j) The Contractor shall have known that the certified cost or pricing data were defective, but even then the contractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
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.

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

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

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

If any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to that resulting from defects in data relating to modifications for which this clause became operative under paragraph (a) of this clause.

Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to that resulting from defects in data relating to modifications for which this clause became operative under paragraph (a) of this clause.

If any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to that resulting from defects in data relating to modifications for which this clause became operative under paragraph (a) of this clause.

If any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to that resulting from defects in data relating to modifications for which this clause became operative under paragraph (a) of this clause.

Any offset shall not be allowed if—

(A) The undersigned data were known by the Contractor to be unduly delayed or interrupted by any other cause, including the fault or negligence of the Contractor,

(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.

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

Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment, to be computed from the date(s) of overpayment to the Contractor to the date(s) of overpayment to the Contractor to the date(s) of such overpayment to the Contractor.

(a) This clause shall become operative only for any modification to this contract involving a reduction in the contract price.

The contractor shall, without additional compensation, correct or remove any errors or deficiencies in its designs, drawings, specifications, and other services furnished by the contractor under this contract. The contractor shall, without additional compensation, correct

(b) Neither the Laboratory’s review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the contractor shall be and remain liable to the Laboratory and the Government in accordance with applicable law for all damages to the Laboratory caused by the contractor’s negligent performance of any of the services.

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

If the performance of any of one or more legal entity, such entity shall be jointly and severally liable hereunder.

28. DESIGN WITHIN FUNDING LIMITATIONS (OCT 1999)

The contractor shall accomplish the design services required under this contract so as to permit the award of a contract using standard Federal Acquisition Regulation procedures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price set forth in paragraph (c) below. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform any necessary redesign and other services as necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. The contractor shall be expected to perform such additional services at no cost to the Laboratory if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) If the Contractor and the Laboratory agree that the contract price is too high, the Contractor shall prepare an estimate of the additional cost to the Contractor to perform the contract.

(c) The estimated construction contract price for the project described in this contract is $_____.

29. WORK OVERSIGHT IN ARCHITECT-ENGINEER CONTRACTS (OCT 1999)

The extent and character of the work to be done by the contractor shall be subject to the general oversight, supervision, direction, control, and approval of the Laboratory.

30. REQUIREMENTS FOR REGISTRATION OF DESIGNERS (JUNE 2003)

Architects or engineers registered in the particular professional field involved in a State, the District of Columbia, or an adjoining area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.

31. KEY PERSONNEL (DEC 2000)

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

1. Notify the Laboratory Procurement Official reasonably in advance.

2. Provide a written proposal (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract, and

3. Obtain the Laboratory Procurement Official’s written approval.

Notwithstanding the foregoing, the Laboratory may remove or suspend any member of its management team necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity.

32. INSPECTION (OCT 1999)

The Laboratory, through any authorized representatives, has the right at all reasonable times, to inspect, or otherwise evaluate the work performed or being performed hereunder and the premises in which it is being performed. If any inspection or evaluation is made by the Laboratory on the premises of the contractor or anywhere else, the contractor shall provide and shall require its subcontractors to provide all reasonable facilities and assistance for the safety and convenience of the Laboratory representatives in connection with such inspections and evaluations shall be performed in such a manner as will not unduly delay the work.

33. CHANGES—FIXED PRICE (OCT 1999)

(a) The Laboratory may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part or all of the work, or the total contract price of work changed by the order, the Laboratory shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The contractor must submit any “proposal for adjustment” (hereafter referred to as proposal) under this clause within 30 days from the date of receipt of the written order. However, if the laboratory decides the change in the cost or time is reasonably immaterial, the laboratory may reject and act upon the proposal submitted before final payment of the contract.

(d) If the contractor’s proposal reduces the cost of property made obsolete or excess by the change, the Laboratory shall have the right to prescribe the manner of the disposition of the property.

(e) Nothing in this clause shall excuse the contractor from proceeding with the contract as changed.

34. SUSPENSION OF WORK (OCT 1999)

(a) The Laboratory may order the contractor, in writing, to suspend, delay, or interrupt all or any part of the work for any reason or reason whatsoever set forth in paragraph (c) below. The contractor shall be entitled to additional compensation, as determined by the Laboratory, for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the suspension or delay or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been suspended, delayed, or interrupted by any other cause, including any act of the contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract.

(b) Neither the Laboratory’s review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract, and the contractor shall be and remain liable to the Laboratory and the Government in accordance with applicable law for all damages to the Laboratory caused by the contractor’s negligent performance of any of the services.

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

If the performance of any of one or more legal entity, such entity shall be jointly and severally liable hereunder.

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

This clause shall become operative only for any modification to this contract involving a pricing data adjustment expected to exceed the threshold below, unless 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.

$_____________.

(a) The Laboratory may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part or all of the work, or the total contract price of work changed by the order, the Laboratory shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The contractor must submit any “proposal for adjustment” (hereafter referred to as proposal) under this clause within 30 days from the date of receipt of the written order. However, if the laboratory decides the change in the cost or time is reasonably immaterial, the laboratory may reject and act upon the proposal submitted before final payment of the contract.

(d) If the contractor’s proposal reduces the cost of property made obsolete or excess by the change, the Laboratory shall have the right to prescribe the manner of the disposition of the property.

(e) Nothing in this clause shall excuse the contractor from proceeding with the contract as changed.

(f) No services for which an additional cost or fee will be charged by the contractor shall be furnished without the prior written authorization of the Laboratory.
36. ASSIGNMENT AND SUBCONTRACTING (OCT 1999)

(a) Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laboratory. The Laboratory may assign the contract in whole or in part to any party acting for the Laboratory or on its behalf.

(b) The contractor shall not subcontract any portion of the work hereunder without the prior written approval of the Laboratory. When requesting such approval, the contractor shall furnish the Laboratory with the name of the proposed subcontractor, a description of the work proposed to be subcontracted, and such other information as the Laboratory shall require.

36. SUBcontracts FOR COMMERCIAL ITEMS (FEB 2016)

(a) Definitions. As used in this clause—

“Commercial item” has the meaning contained in Federal Acquisition Regulation 2.101.

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

(b) Subcontracts. The Contractor shall incorporate, and require its subcontractors to incorporate, and require their subcontractors at all tiers to incorporate, commercial items or non-developmental items as the requirements of items to be supplied thereby with the following items:

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

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (OCT 2015) (41 U.S.C. 472 (b));

(ii) 52.212-35, Equal Opportunity for Workers with Disabilities (Aug 2014) (12 CFR 222.40 - 222.42);

(iii) 52.219-35, Equal Opportunity for Workers with Disabilities (Aug 2014) (12 CFR 222.40 - 222.42);

(iv) 52.222-42, Basis of Contract Award (Oct 2015) (41 U.S.C. 472 (a) (10));

(v) 52.222-40, Subcontracting Plan (OCT 2015) (41 U.S.C. 472 (a) (10));


(c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the date of final payment under the contract.

(2) The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract that exceeds $550,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

(3) If the subcontract exceeds $550,000 and has a performance period of more than 120 days, the Contractor shall include the following clause in any subcontract exceeding $550,000 and having a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract that exceeds $550,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

37. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT—OVERTIME COMPENSATION (MAY 2014)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.301, or comparable state law) shall employ laborers or mechanics who complete, or attempt to complete, any work in excess of 40 hours per work week or 400 hours per work period, unless the work is required to be completed by law or by the terms of the contract.

(b) Violation. Liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor shall be liable for unpaid wages if they violate the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages if amounts withheld under this contract are not paid to the subcontractor for the work performed in accordance with the contract, or as required by law.

38. PERMITS OR LICENSES (OCT 1999)

(a) Definitions. As used in this clause—

“Permit” means any permit, license or other authorization required by law or under the terms of the contract.

(b) The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract that exceeds $550,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

(c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the date of final payment under the contract.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract that exceeds $550,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

39. 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 that was not excluded from the contract price but whose exclusions were later revoked or modified or for which the contractor was not charged when the Contractor entered into the contract or a subcontractor for which the contractor was not charged when the subcontractor entered into the contract.

“Relationship Federal tax” means any amount of Federal excise tax or duty, except social security tax or other employment taxes, that would have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay to the federal government or to the subcontractor’s federal government or to the Contractor’s federal government.

“Suspension” means a suspension, or for which the Contractor has not obtained a refund or drawback, as the result of any appeal, administrative, judicial, or legislative action taking effect after the contract date.

“Applicable Federal, State, and local taxes and duties” means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

“Contract price” means the contract price set forth in the contract or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

“Local taxes” includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the tax is imposed on property or persons in any of those areas.

“Emergency tax or duty” means any amount of Federal excise tax or duty, except social security tax or other employment taxes, that would have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay to the federal government or to the subcontractor’s federal government or to the Contractor’s federal government.

(b) The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract that exceeds $550,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

(c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the date of final payment under the contract.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract that exceeds $550,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate subparagraphs, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the Office of the Inspector General, with a copy to the Contracting Officer.

40. TERMINATION (FIXED-PRICE CONTRACT-ENGINEER) (APR 1984)

(a) The Contractor may terminate this contract in whole or in part, from time to time, in part, for the convenience of the Laboratory or because of the failure of the contractor to fulfill the contract obligations. The Laboratory shall terminate by delivering to the contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the contractor shall:

(1) immediately discontinue all services affected (unless the notice directs otherwise), and deliver to the Laboratory all data, drawings, specifications, reports, estimates, summaries, and other written materials accumulated in performing this contract, whether completed or in progress.

(b) The notice is for failure of the contractor to fulfill the contract obligations, the Laboratory may complete the work by contract or otherwise and the contractor shall be liable for any additional cost incurred by the Laboratory.

(c) If, after termination for failure to fulfill contract obligations, it is determined that the contractor had not failed, the rights and obligations of the parties shall be the same as if the termination had not been forthcoming.

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

41. ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) Definitions. As used in this clause—

“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, subcontractor, or subcontractor employee for the purpose of improperly inducing or rewarding favorable treatment in connection with a prime contract or in connection with a subcontractor to a prime Contractor or higher tier subcontractor.

“Person,” as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

“Prime contractor,” as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

“Prime Contractor” as used in this clause, means a person who has entered into a prime contract with the United States or a contractor of the United States.

“Prime Contractor employee,” as used in this clause, means any officer, partner, employee, or agent of a prime contractor.

“Subcontract,” as used in this clause, means a contract or contractual action entered into by a prime Contractor or subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind.

“Subcontractor,” as used in this clause, means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a subcontract or a sub-subcontract or in furtherance of a prime contract.

“Subcontractor employee,” as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) Prohibition. As used in this clause, prohibits any person from—

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

(2) soliciting, accepting, or agreeing to accept any kickback;

(3) including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor;

(4) the Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(c) The Contractor shall submit to the United States and of the United States, and of the State, and political subdivision in which the work under this contract is performed.
Contractor withhold from sums owed a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(4)(i) of this clause be paid over to the Government unless the Government has already paid over to the Government any other kickback. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excluding paragraph (c)(1), in all subcontracts under this contract which exceed $100,000.

42. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of Treasury, the Contractor shall not author for use in any other kickback. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(b) Prohibition. 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of a person requesting or receiving a covered Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

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

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

(c)(1) Agency and legislative liaison by Contractor employees.

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

(ii) Participating in technical discussions regarding the preparation of an unclassified document or report.

(iii) Making capability presentations prior to formal solicitation of any covered Federal action from an agency seeking to enter into a contract under this clause. An officer or employee of any agency may call on an agency contracting office to receive necessary information for the preparation of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

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

(a) Definitions. As used in this clause—

(b) Restrictions on certain Federal transactions (JUN 2008)

(1) Agency means "executive agency" as defined in Federal Acquisition Regulation (FAR) 1.2.

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

(d) Definitions. As used in this clause—

(e) Authority means "executive agency" as defined in Federal Acquisition Regulation (FAR) 1.2.

(f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision of law.

(g) The Contractor shall incorporate the substance of this clause, including this paragraph (g), in any subcontract under this contract which exceeds $100,000.

45. PAYMENTS UNDER FIXED-PRICE ARCHITECT-ENGINEER CONTRACTS (APR 2010)

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

(b) Participating in technical discussions regarding the preparation of an unclassified document or report.

(c) Making capability presentations prior to formal solicitation of any covered Federal action from an agency seeking to enter into a contract under the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(d) Professional and technical services.

(i) Payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

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

(iii) Requirements imposed as a condition for receiving a covered Federal award include those required by law and regulation and any other requirements in the actual agreement.

(j) The Contractor shall incorporate the substance of this clause, including this paragraph (j), in any subcontract under this contract which exceeds $100,000.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unavailable to the Contractor for any other Federal contract or subcontract.

(3) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excluding paragraph (c)(1), in all subcontracts under this contract which exceed $100,000.
(c) Upon satisfactory completion by the Contractor and final acceptance by the Contracting Officer of all the work done by the Contractor under the “Statement of Architect-Engineer Services”, the Contractor will be paid the unpaid balance of any amount due for work under this statement, including all withheld amounts.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent to final payment, the Contractor shall execute and deliver to the Laboratory a release of all claims against Laboratory or, under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, any contractor penalties (other than debarment) on a contract for work accomplished on undefinitized contract actions. A “contract action” is any action resulting in, or as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications contained in the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

46. PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

(1) No contractor shall separate or segregate its employees on the basis of race, color, religion, sex, national origin, age, or disability in any of its facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the opportunity clause in this contract.

(2) The Contractor shall include this clause in every subcontract and purchase order that is in effect on or after the date of this clause.

47. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

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

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

48. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEE ABOUT WHISTLEBLOWER RIGHTS (MAR 2015)

(a) This contractor and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on contractor whistleblower protections established at 41 U.S.C. 4721 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-297) and FAR Subpart 2.1.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employees whistleblower protections and under 41 U.S.C. 4722, as authorized by section 828 of the National Defense Authorization Act.

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

49. PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

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

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

50. DEFINING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

(a) Definitions. As used in this clause-

(1) “Agent” means any person, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

(b) Definitions. As used in this clause-

(1) Agent means any person, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

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

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

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

(c) Contract requirements. The Contractor shall-

(1) Notify its employees and agents of-
Compliance plan.

(1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately if:

(a) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (and requires the office to take the disclosures to the agency and the Inspector General when the Contractor has credible evidence of fraud); and

(b) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with multiple subcontracts and in such instances, the Contractor shall inform the contracting officer for the contract with the highest dollar value.

(3) The requirement for full cooperation does not foreclose any Contractor rights arising from paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against employees or agents for violations of this policy.

(4) Posting.

(i) The Contractor shall post the relevant contents of the compliance plan, no later than the initial contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor’s Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.

(ii) The Contractor shall provide the compliance plan to the Contracting Office upon request.

(5) Certification. After receiving an award, the Contractor shall submit a certification to the Contracting Officer that:

(a) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of this clause to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; or

(b) It has provided full cooperation with respect to any claim or action brought by the contractor or subcontractor, or their agents, contractors, or employees, to enforce any contract or subcontract provision or right.

(b) Mitigating factors. The Contractor had a Trafficking in Persons compliance plan or an awareness program to inform contractor employees about the activities prohibited, and the actions that will be taken against employees or agents for violations of this policy.

(1) The Contractor shall, at a minimum—

(i) An awareness program to inform contractor employees about the Trafficking in Persons policy, as to Trafficking in Persons and examples of awareness programs can be found at 20 U.S.C. 2238a (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulations.

(ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(c) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracted or governmental agencies, and the presence requirements in paragraph (h) of this clause apply only to any portion of the subcontract or subcontractor.

(d) The Contractor shall provide the contracting officer with the information described in paragraphs (b) or (c) of this clause within 30 days of the contract award.

(e) The Contractor shall provide the Contracting Officer with the contractual obligation and profit from a potential or disclosed violation.

(f) The Contractor shall, at a minimum—

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the offense;

(ii) Provide timely and complete responses to Government auditors and investigators’ requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies or contracting officers to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7101 et seq.) or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(iv) Protect all employees from being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracted or governmental agencies, and the presence requirements in paragraph (h) of this clause apply only to any portion of the subcontract or subcontractor.

(g) The Contractor shall provide the compliance plan to the Contracting Officer to do so.

(h) Full cooperation.

(1) The Contractor shall provide the Contracting Officer with the information described in paragraphs (b) or (c) of this clause within 30 days of the contract award.

(2) The Contractor shall provide the compliance plan to the Contracting Officer with the information described in paragraphs (b) or (c) of this clause within 30 days of the contract award.

(3) The Contractor shall include the substance of this clause, including this paragraph (e), in all solicitations and subcontracts.

(i) The Contractor shall provide the compliance plan to the Contracting Office upon request.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising from paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against employees or agents for violations of this policy.

(j) Compliance plan.

(1) This paragraph (h) applies to any portion of the contract that—

(a) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and

(b) Has an estimated value that exceeds $500,000.

(2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate—

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed by the Contractor or subcontractor and the risk that the contract or subcontract will involve supplies or services susceptible to trafficking in persons.

(3) Minimum requirements. The compliance plan must include, at a minimum, the following:

(a) An awareness program to inform contractor employees about the Government’s policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website of the Department of State’s Office to Monitor and Combat Trafficking in Persons at http://www.state.gov/t/otp/

(b) A process for the prompt reporting of any fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Hotline at 1-888-423-7888 (TOLL FREE) and its email address

(c) A written and valid wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.

(d) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(e) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontractors, or subcontractor employees that have engaged in such activities.

(f) Posting.

(i) The Contractor shall post the relevant contents of the compliance plan, no later than the initial contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor’s Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.

(ii) The Contractor shall provide the compliance plan to the Contracting Office upon request.

(3) Certification. After receiving an award, the Contractor shall submit a certification to the Contracting Officer that:

(a) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of this clause to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; or

(b) It has provided full cooperation with respect to any claim or action brought by the contractor or subcontractor, or their agents, contractors, or employees, to enforce any contract or subcontract provision or right.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracted or governmental agencies, and the presence requirements in paragraph (h) of this clause apply only to any portion of the subcontract or subcontractor.

(c) The Contractor shall provide the compliance plan to the Contracting Officer with the information described in paragraphs (b) or (c) of this clause within 30 days of the contract award.

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

Site Access

Site access, including cyber access utilizing a Laboratory account, by all non-U.S. citizens must be approved by the Laboratory Director or his designees and requests must be submitted on Form ANL-593. Non-U.S. citizens are either visitors (on site for 30 days or less) or assignees (on site for more than 30 days in any 12-month period). A certified host must be assigned for each visit to the Laboratory. Former U.S. citizens are exempt for advance as possible (a minimum of 30 days for a sensitive assignment, 7 days for a non-sensitive country assignment or less).

Assignments (more than 30 days) involving a foreign national from a “Sensitve Country”, and/or access to a security area of the Laboratory or access to a sensitive subject, at least 30 days advance notice, alternative forms of identity will be provided to facilitate the process. A security clearance, a DOE indices check, and a DOE check are required. DOE indices check and A access are approved, and an indices check (valid for two years).

For visits or assignments involving a foreign national from a “Terrorist Supporting Country”, which includes Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria, specific security clearance, an DOE indices check and A access are required. The approval of the visit/assignment by the Laboratory Director is required. This approval, if granted, may take up to one year after the internal approvals have been processed.

The time frames indicated above are guidelines and should not be construed as contract terms. There may be equitable adjustment or claim to the contract price or performance/delivery.

The contractor is responsible for providing the Argonne Technical Investigator associated with your activity.

Foreign Participation

The Department of Energy directs and Department of Commerce regulations, persons who are born in (and who are not naturalized U.S. Citizens) or are citizens of any “Terrorist Supporting Country” are not permitted to contact any sensitive or classified information.

In addition to the Federal laws and regulations cited above, National Security Decision Directive (NSDD) 189, National Policy on the Transfer of Scientific, Technical, and Engineering Information export and import regulations, as well as the maximum extent possible, the products of fundamental research shall remain unclassified. NSDD 189 provides that no restrictions may be placed upon the conduct or reporting of federally funded fundamental research that has not received national security classification, except as provided in applicable U.S. statutes. All other laborations in the Department of Energy, regardless of unclassified fundamental research generally do not involve any export-controlled activities.

NSDD 189 does not take precedence over statutes. NSDD 189 does not exempt any person from statutes that are more stringent. Further, NSDD 189 is understood to be consistent with the Export Administration Act as amended; the Arms Export Control Act; the Export Administration Act of 1979, as amended; or the United States International Emergency Economic Powers Act; or the regulations that implement those statutes (e.g., the ITAR, the EAR, or the EAR 10 CFR part 10 and the EAR 810). Therefore, persons who control such export-controlled by U.S. export control laws or regulations are used to conduct research or are generated as part of the research efforts, the export control laws and regulations apply to the controlled items.

The Contractor shall include the substance of this clause, including this paragraph (e), in all solicitations and subcontracts.
54. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and information being transmitted under the performance of this contract may be subject to U.S. Government laws and regulations regarding export or re-export. This includes deemed exports which are any communication of technical data to a foreign national, whether it takes place in the United States or abroad. Technical information (data) provided to a foreign national virtually, by mail, by telephone or facsimile, through visits or workshops, or through computer networking is an export. If a foreign national observes equipment or a process, it may constitute an export of technical data. Significant details revealed, which are not in the public domain, and are the sole contractor's obligation to obtain all appropriate export licenses, keep records, and comply with all export control and regulations. Unless authorized by appropriate government license or regulation, contractor agrees not to export directly or indirectly any technology, software or materials provided by the Laboratory. Contractor shall be solely liable for any violation of export control statutes or regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

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

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

An export can occur through a variety of means, including oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their country are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technology.

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

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

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

56. CONFLICTS OF DOCUMENTATION (MAY 2001)

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

57. RIGHTS TO PROPOSAL DATA (MAY 2001)

It is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice of default or breach of contract, the contractor shall not disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this contract is based.

58. 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.

59. BAR ON CONTRACTING (MAY 2001)

Any firm involved in the furnishing of architect-engineering services under this contract (including their parent firms, subsidiaries or affiliates), and any successors in interest thereto, are ineligible until completion of construction of the facility to be designed hereunder to compete for or be awarded or perform any work under any contract or subcontract for the furnishing of supplies and/or services for construction work with respect to the facility designed hereunder, and the design prepared hereunder shall not incorporate the products of any such firm. Neither shall such a firm be allowed to participate in any such work with its own forces. The foregoing shall not preclude such firms from providing construction management services for the facility designed hereunder, provided the contract therefore requires that all physical construction and related supply contracts or subcontractors are to be competitively bid and provided that all such firms are ineligible to bid or perform any work under such contracts or subcontract.

60. LIMITATIONS PERIOD (MAY 2001)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract must be initiated in writing to the Laboratory Procurement Office 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 actions.

61. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2003)

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, contractors are responsible for it and maintain appropriate levels of automobile liability coverage for property damage and bodily injury and such insurance shall be primary.

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

(a) Definitions. As used in this clause—

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

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

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

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

(c) The Contractor is encouraged to—

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

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

(ii) All vehicles operated in connection with the contractor's business or when performing any work for or on behalf of the Government.

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

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

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

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

63. 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.

64. TECHNICAL STANDARDS PROGRAM (FEB 2011)

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

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

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

    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. This includes, but is not limited to, technologies that are specific, subject to counterfeits, or for export.

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

5. Report participation in VCS activities conducted in support of DOE missions and functions through the Laboratory Technical Standards Manager in The Office of Contract Administration (COA). [use Form DOE F 1300.2 (05/2010)].

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

65. SUSPECT COUNTERFEIT PARTS (DEC 2007)

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

Types of material, parts, and components known to have been misrepresented include (but are not limited to) fasteners; hoisting, rigging, and lifting equipment; cranes; hoists; valves; pipe and fittings; electrical equipment and devices; plate, bar, shapes, channel members, and other heat treated materials and structural items; welding rod and electrodes; and computer memory modules. The contractor's warranty also extends to labels and/or trademarks or logos affixed, or designed to be affixed, to items supplied or delivered to the Laboratory. In addition, because falsification of information or documentation may constitute criminal conduct, the Laboratory may reject and retain such information or items, at its cost, and identify, segregate, and report such information or activities to cognizant Department of Energy officials.
Suspect/Counterfeit Bolt Headmark List

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

All Grade 5 and Grade 8 fasteners of foreign origin which do not bear any manufacturers’ headmarks:

<table>
<thead>
<tr>
<th>Grade 5</th>
<th>Grade 8</th>
</tr>
</thead>
</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 Sieybo (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
</tr>
<tr>
<td>Hollow Triangle</td>
<td>Infasco (CA, TW, JP, and YU) (Greater than 1/2-inch diameter)</td>
</tr>
<tr>
<td>E</td>
<td>Daiei (JP)</td>
</tr>
<tr>
<td>KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
<tr>
<td>RT</td>
<td>Takai Ltd. (JP)</td>
</tr>
<tr>
<td>FM</td>
<td>Fastener Co. of Japan (JP)</td>
</tr>
<tr>
<td>KY</td>
<td>Kyo Mfg. (JP)</td>
</tr>
<tr>
<td>J</td>
<td>Jinn Her (TW)</td>
</tr>
<tr>
<td>UNY</td>
<td>Unytite (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 (BENNETT 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