APPENDIX A
ARGONNE TERMS AND CONDITIONS
(For Cost-Reimbursement Contracts)

1. Displaced Employee Hiring Preference (Jun 1997) ...................... 2
2. Covenant Against Contingent Fees (May 2014) ...................... 2
3. Equal Opportunity (Apr 2015) ........................................ 2
4. Equal Opportunity For Workers With Disabilities (Jul 2014) ......... 2
5. Employment Reports On Veterans (Jul 2014) ...................... 2
6. Equal Opportunity For Veterans (July 2014) ........................ 3
10. Information Technology Acquisitions (March 2009) ............... 3
11. Security (Oct 2013) (Deviation) ...................................... 4
12. Classification/Declassification (Sep 1997) ...................... 4
13. Energy Efficiency In Energy-Consuming Products (Dec 2007) .... 4
16. Substitution Of Transportation Documents For Audit (Feb 2006) .... 5
17. Preference For U.S. Flag Air Carriers (Jun 2003) ...................... 5
21. Notice To The Laboratory Of Labor Disputes (Oct 1999) ...................... 7
22. Reports (Oct 1999) ........................................ 7
23. Subcontractor Cost Or Pricing Data (Oct 2010) ...................... 7
25. Subcontractor Cost Or Pricing Data–Modifications (Oct 2010) .... 7
27. Price Reduction For Defective Certified Cost Or Pricing Data— Modifications (Aug 2011) ...................... 8
30. Excusable Delays (Oct 1999) ........................................ 9
32. Permits Or Licenses (Oct 1999) ........................................ 9
33. Subcontracts (Oct 2010) ........................................ 9
34. Assignment (Oct 1999) ........................................ 9
35. Subcontracts For Commercial Items (Apr 2015) ...................... 9
36. Property (Jan 2013) ........................................ 10
37. Key Personnel (Dec 2000) ........................................ 10
38. Contract Work Hours And Safety Standards Act – Overtime Compensation (May 2014) ...................... 10
39. Integrity Of Unit Prices (Oct 2010) ................................ 11
40. Warranty Of Services (May 2001) ................................ 11
41. Warranty Of Supplies (Jun 2014) ................................ 11
42. Buy American Act – Supplies (May 2014) ...................... 11
43. Contracts For Materials, Supplies, Articles, And Equipment Exceeding $15000 (May 2014) ...................... 11
44. Insurance–Liability To Third Persons (Mar 1996) ...................... 11
45. State And Local Taxes (Dec 2000) ................................ 12
46. Termination (Cost-Reimbursement) (May 2004) ...................... 12
47. Anti-Kickback Procedures (May 2014) ...................... 12
50. Limitation On Payments To Influence Certain Federal Transactions (Oct 2010) ...................... 13
51. Limitation Of Funds (Apr 1984) ................................ 14
52. Limitation Of Cost (Apr 1984) ................................ 14
53. Allowable Cost And Payment (Jun 2011) ...................... 15
54. Bankruptcy (Jul 1995) ........................................ 15
55. Restriction On Certain Foreign Purchases (Jun 2008) ...................... 15
56. Prohibition Of Segregated Facilities (Apr 2015) ...................... 15
57. Accounts, Records, And Inspection (Dec 2010) ...................... 15
58. Whistleblower Protection For Contractor Employees (Dec 2000) .......... 16
59. Contractor Employee Whistleblower Rights And Requirement To Inform Employees Of Whistleblower Rights (Apr 2014) ...................... 16
60. Protecting The Government’s Interest When Subcontracting With Contractors Debarred, Suspended, Or Proposed For Debarment (Aug 2013) ...................... 16
61. Combating Trafficking In Persons (Feb 2009) ...................... 16
62. Research Misconduct (Jul 2005) ................................ 16
63. Laboratory Site Access And /Or Participation In Activities By Non-U.S. Nationals (Dec 2004) ...................... 17
64. Export License Agreement (Aug 2002) ................................ 17
65. Export Control Information For Foreign Travel (Nov 2002) ...................... 17
66. Conflicts In Documentation (May 2001) ...................... 17
67. Rights To Proposal Data (August 2001) ...................... 17
68. Environmental Protection (May 2001) ...................... 17
69. Limitations Period (May 2001) ...................... 17
70. Vehicle Liability Insurance Coverage (August 2001) ...................... 17
71. Encouraging Contractor Policies To Ban Text Messaging While Driving (Aug 2011) ...................... 17
72. Integration Clause (May 2001) ................................ 17
73. Technical Standards Program (Feb 2011) ...................... 17
74. Suspect Counterfeit Parts (Dec 2007) ...................... 18
3. "Improper influence," as used in this clause, means any influence that induces or tends to
(b) "Bona fide agency," as used in this clause, means an established commercial or selling
(a)
2. COVENANT AGAINST CONTINGENT FEES (MAY 2014)
(2) If the Contractor is a religious corporation, association, educational institution, or
(b) (1) If, during any 12-month period (including the 12 months preceding the award of this
(3) The maximum number and minimum number of employees of the Contractor or
(2) If the Contractor has prior written approval from the Equal
(1) As of the end of any pay period between July 1 and August 31 of the year the report
(2) As of December 31, if the Contractor has prior written approval from the Equal
(1) The Contractor agrees to post employment notices stating -- (i) the Contractor's
(3) The total number of employees in the contractor's workforce, by job category and
(2) The Contractor shall take affirmative action to ensure that applicants are employed,
(1) The Contractor shall furnish to the contracting agency all information required by
(7) The Contractor shall take such action with respect to any subcontract or purchase order
(11) The Contractor shall take such action with respect to any subcontract or purchase order
(10) The Contractor shall include the terms and conditions of this clause in every
(9) If the OFCCP determines that the Contractor is not in compliance with this clause or
(8) investigation and pertinent to compliance with Executive Order 11246, as amended,
(7) The Contractor shall take such action with respect to any subcontract or purchase
(6) Effective on March 31 of each year, the OFCCP shall submit VETS-100A Reports.
(5) The Contractor shall send, to each labor union or representative of workers with
(4) If the Contractor is a religious corporation, association, educational institution, or
(3) The Contractor shall report the above items by completing the Form VETS-100A, entitled
(2) The total number of new employees hired during the period covered by the report,
(1) Employment;
(6) The Contractor shall notify the contracting agency all information required by Executive
(7) The Contractor shall furnish to the contracting agency all information required by
(6) The Contractor shall comply with the OFCCP's request, including those portions of the
(5) The Contractor shall ensure that applicants and employees are informed of the contents
(4) The Contractor shall provide information necessary to determine the applicability of
(3) The requirements of this clause do not apply with respect to the employment
(2) Any notice that the Federal computerized records, and other material that may be relevant to
(1) As of the end of any pay period between July 1 and August 31 of the year the report
(2) Of the total number of employees in the contractor's workforce, the number employed at
(1) Of the total number of employees in the contractor's workforce, the number employed at
(1) As of December 31, if the Contractor has prior written approval from the Equal
(2) The Contractor is bound by the terms of Section 503 of the Act and is committed to take
(3) Conversion of the aforementioned federal contract requirement into a continuing federal
(4) The Contractor shall take affirmative action to employ and advance in employment
compliance evaluations and complaint investigations. The Contractor shall permit the
(2) The Contractor shall act as specified by the Deputy Assistant Secretary to appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary of the
(1) These notices shall be posted in conspicuous places that are available to employees
(3) The Contractor shall ensure that applicants and employees are informed of the contents
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(2) The total number of employees in the contractor's workforce, by job category and
(2) The Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ and advance in employment qualified individuals with disabilities; and (ii) the rights of applicants and employees.
(2) These notices shall be posted in conspicuous places that are available to employees and applicants. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs; and (b) Affirmative action programs; and (c) Training programs; and (d) Professional meetings; conferences, and other related activities, and selection for leaves of absence to pursue training;
(3) The Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ and advance in employment qualified individuals with disabilities; and (i) Employment;
(4) The Contractor shall take affirmative action to ensure that applicants are employed,
(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.
(2) The Contractor shall act as specified by the Deputy Assistant Secretary to appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary of the
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(2) The Contractor shall act as specified by the Deputy Assistant Secretary to appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary of the

(a) Definitions. As used in this clause—

"Active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "eligible＋veteran," "Howardábado disabled veteran," and "recently separated veteran" have the meanings given at FAR 21.313.

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-74.165(b) as of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.


(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 labor governing relations between unions and employers in the private sector. See 29 CFR Part 471. The notice, prescribed in the Department of Labor’s regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA, the primary law governing relations between unions and employers in the private sector. See 29 CFR Part 471.

8. Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)

Applies To Contracts That Exceed $10,000 In Value

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and form, and containing such content, as prescribed in the Department of Labor, in conspicuous places in and about its plants and offices where employees covered by the national labor relations Act engage in activities related to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor’s plants and offices where employees covered by the NLRA are directly performing work, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

(2) The Contractor shall post the required notice electronically by displaying prominently, on the Contractor's Web site and in all locations where employees covered by the NLRA are directly performing work, in the languages employees speak, important notice about the NLRA rights and responsibilities of employees covered by the NLRA.

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


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

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

(d) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (c) of this clause, this contract may be terminated or suspended in whole or in part. The Contractor may be fined or its services may be denied in accordance with 29 CFR 471.14 and subpart 471.14 Other such sanctions or remedies may be imposed as provided in 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

Subcontracts

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

(ii) Does not include bulk cargo, defined as 46 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c) (4), "bulk cargo" means cargo that is not loaded and unloaded on or off an item of equipment other than the vessel, in loose unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabees barges, is subject to mark and count.

Employee assigned to the contract means an employee who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands) who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.303. An employee is not considered to be directly performing work under a subcontract if—

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

(ii) Does not perform any substantially similar functions under a subcontract. ‘Subcontract’ means any contract, as defined in 21.1010, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

(i) The Contractor shall enroll as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(1) Enroll, Enroll as a Federal Contractor in the E-Verify program within 30 business days after the date of hire (see paragraph (b)(3) of this section); or

(2) Offer to verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, beginning to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(ii) Employment eligibility. Assignments to the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section).

(c) Requirements for employees assigned to the contract.

(1) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) New employees.

(3) If the Contractor is not enrolled as a “Federal Contractor” in the E-Verify program within 30 days of the Effective Date, the Contractor may choose to use E-Verify to verify employment eligibility of new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section).

(4) Enroll as a Federal Contractor in E-Verify. The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands) who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section).

(d) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor’s MOU and deny access to the E-Verify system if the Contractor fails to—

(i) Complete the System in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) Provide required information to E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program.

The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor’s MOU and deny access to the E-Verify system unless the Contractor provides required information to E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program.

(e) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(f) Participation—E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program.

(1) All new employees—

(i) Enrollment in E-Verify program.

(ii) Participation—E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program.

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

(iv) Does not include bulk cargo, defined as 46 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c) (4), "bulk cargo" means cargo that is not loaded and unloaded on or off an item of equipment other than the vessel, in loose unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabees barges, is subject to mark and count.

Employee assigned to the contract means an employee who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.303. An employee is not considered to be directly performing work under a subcontract if—

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

(ii) Does not perform any substantially similar functions under a subcontract. ‘Subcontract’ means any contract, as defined in 21.1010, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services for a prime contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(10) Enrollment in E-Verify program.

(i) Participation—E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program.

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

(iii) Does not include bulk cargo, defined as 46 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c) (4), "bulk cargo" means cargo that is not loaded and unloaded on or off an item of equipment other than the vessel, in loose unpackaged form, having homogeneous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabees barges, is subject to mark and count.

Employee assigned to the contract means an employee who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.303. An employee is not considered to be directly performing work under a subcontract if—

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

(ii) Does not perform any substantially similar functions under a subcontract. ‘Subcontract’ means any contract, as defined in 21.1010, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services for a prime contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.
11. SECURITY (OCT 2013) (DEVIATION)

Responsibility.

The Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting classified (including documents, material of any kind and classified nuclear material) which are in the Contractor’s possession or control, and classified information that is retained under the Contractor’s control in connection with the performance of this contract. This protection shall include, but not be limited to, the use of physical and/or electronic security measures, and shall be in accordance with the DOE’s “Federal Facilities: Security Program” as amended, and as required by other applicable DOE directives.

(g) Definition of Special Nuclear Material. The term “special nuclear material” means:

(i) The contractor shall not retain classified information or matter after the completion or termination of the contract. If the retention by the contractor of classified information or matter is required by law or DOE policy, then the contractor shall notify DOE in writing of the retention and the reasons for the retention, and the proposed period of retention. If the retention is approved by DOE, the contractor shall retain such information or matter for the period specified by DOE, and shall notify DOE in writing of the completion or termination of the retention.

(ii) Definition of National Security Information. The term “National Security Information” means classified matter retained after the completion or termination of the contract. If retention by the contractor of classified information or matter is required by law or DOE policy, then the contractor shall notify DOE in writing of the retention and the reasons for the retention, and the proposed period of retention. If the retention is approved by DOE, the contractor shall retain such information or matter for the period specified by DOE, and shall notify DOE in writing of the completion or termination of the retention.

(iii) Definition of Restricted Data. The term “Restricted Data” means all information concerning design, manufacture, or use of special nuclear material in the production of energy, but excluding data classified or declassified from the Restricted Data category pursuant to 42 U.S.C. 1762 (as amended, of the Atomic Energy Act of 1954).

(iv) Definition of Formerly Restricted Data. The term “Formerly Restricted Data” means all information concerning design, manufacture, or use of special nuclear material in the production of energy, but excluding data classified or declassified from the Restricted Data category pursuant to 42 U.S.C. 1762 (as amended, of the Atomic Energy Act of 1954).

(v) Definition of National Security Information. The term “National Security Information” means classified information or matter that is contained in, or originated by, any entity that does not have access authorization, but that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954.

(vi) Definition of Special Nuclear Material. The term “special nuclear material” means:

(a) defined in the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, Classified National Security Information, as amended, if required by another Federal agency, or whose access authorization may be reapproved by another Federal agency, or whose access authorization may be reapproved by another Federal agency.

(b) if the cognizant security office at any time determines that the contractor is, or is potentially, subject to foreign ownership, control, or influence, the contractor shall comply with such instructions as the contractor shall provide in writing to protect any covered classified information or matter.

(c) The contractor may terminate this contract for default if either the contractor fails to meet obligations imposed by this clause or if the contractor creates the potential of foreign ownership, control, or influence over the contractor which would affect any of the answers presented in the Certificate Pertaining to Foreign Interests, executed prior to award of this contract. In addition, any notice of changes in ownership or control that are required to be reported to the Security and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the contractor.

(d) If the contractor has changes involving foreign ownership, control, or influence, the contractor must determine whether the changes will pose an undue risk to the contractor’s national security or to the Department of Energy’s security.

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 DOE facilities, classified information, documents, or material.

(a) A review must verify an uncleared applicant’s or uncleared employee’s educational background, including any high school diploma obtained within the last five years, and degree or equivalent experience granted by an institution of higher learning. Contact list employees for the last three years and personal references. Conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the contractor is located. Conduct a credit check and other checks as appropriate.

(b) Contractor reviews are not required for an applicant or DOE access authorization who possesses access authorization from DOE, another Federal agency, or whose access authority may be reapproved without a background pursuant to Executive Order 12968, Access to Classified Information (April 8, 1995). In this section, “information” means facts, data, or knowledge itself; “document” means the physical material in which the information is stored or transmitted; “product” means a substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is any information or material that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, as amended, and the “National Security Information” (classified under Executive Order 12958 or prior Executive Orders).

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

(a) Definition. As used in this clause—

1. “Energy-efficient product” means a product that—


B. includes energy consumption tests or other performance tests, such as measurements, observations, or calculations, performed to verify whether a product meets the requirements of this clause.

C. has an energy consumption level that is substantially lower than the energy consumption level of a comparable product.

D. uses energy efficiently throughout its life cycle, including the use of energy-efficient components, materials, and technology, and includes energy-efficient manufacturing processes.

E. The results of the test for illegal drugs.

F. Criminal liability. It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other DOE property, under the terms of this contract, is a violation of DOE’s security regulations. If a contractor fails to meet its obligations imposed by this clause, the contractor is subject to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2121 et seq., 18 U.S.C. 1993 and 794). Contractors are encouraged to submit this report to the Federal Bureau of Investigation.

2. Foreign Ownership, Control, or Influence.

A. The contractor shall immediately provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

B. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

C. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

D. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

E. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

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H. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

I. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

J. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

K. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

L. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

M. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

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S. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

T. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

U. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

V. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

W. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

X. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

Y. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.

Z. The contractor shall provide the cognizant security office written notice of any classified information, any special nuclear material, or any other DOE property that is controlled or held by another entity, or whose access authorization may be reapproved by another entity.
14. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. Appx 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (disregarding such items as freight cars, dry bulk cargo carriers, tankers, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessels—

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

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

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

(4) Acquired with advance of funds, loans, or guarantees made by or on behalf of the United States.

(b) The Contractor shall use U.S.-flag air carriers for international air transportation for personnel (and their personal effects) or property.

(c) In the event that the contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the contractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF C 物ALIBILITY FOR USE OF U.S.-FLAG AIR CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carriers was not necessary. The contractor acknowledges the importance of assuring the availability of U.S.-flag air carriers service for the following reasons (see Section 47.403 of the Federal Acquisition Regulation):

[State reasons]

(End of Statement)

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

15. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

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

(1) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1946, as amended, set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or

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

Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the material, the name and activity of the isotope, the manufacturer of the material, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No. 0928-0070).

* The Laboratory Procurement Representative shall give written notice of the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(e).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from the time of delivery of this contract or prior contracts, the Contractor may request that the Laboratory Procurement Representative or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall—

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed from the time of delivery or the previous servicing of this contract or prior contracts. The Contractor shall have the burden of proof in establishing this fact;

(3) Cite the contract number on which the prior notification was submitted and the mailing address of the contracting office to which it was submitted;

(4) Include all parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microwatts per gram or activity per item equals or exceeds 0.002 microwatts per gram, and all contracts wherein such items, parts or subassemblies are delivered to the Government or the Laboratory shall be clearly marked and labeled as required by the latest revision of MIL-H-46010A, dated the date of the contract. The Contractor shall be responsible for this marking;

(c) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

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

(a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were not—

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

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

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

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

To be filled in by Laboratory Procurement Representative

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

(b) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the reporting thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA;

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

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

(ii) Major group code 12 (except 1243).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4913, or 4959 (limited to facilities that combat coal and/or oil for the purpose of generating power for distribution in commerce).

(v) Industry code 4923 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6922, et seq.), or 5169, 5171, 5179 (limited to facilities primarily engaged in solvent recovery services on a fee basis).

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

(g) If the Contractor has contracted to exempt itself in accordance with one or more of the criteria in paragraphs (b) through (e) of this clause, and after the contractor determines that such an exemption was with the consent of the Laboratory Procurement Representative for the performance of this contract, shall—

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

(2) Continue to file the annual Form R for the life of the contract for such facility.

(h) The Laboratory Procurement Representative may exempt this facility or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical reporting and reporting requirements.

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

(1) For competitive subcontracts expected to exceed $100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding $100,000 (including all options), the substance of this clause, except this paragraph (e).

Office of Cargo Preference
Maritime Administration (MARAD)

400 Seventh Street, SW
Washington, DC 20590

Subcontractor bills of lading shall be submitted through the Prime Contractor.

(2) The Contractor shall furnish these bills of lading copies—

(i) within 30 working days of the date of loading for shipments originating in the United States, or

(ii) within 20 working days of the date of loading for shipments originating outside the United States.

Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.

(B) Name of vessel.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of final discharge.

(G) Description of commodity.

(H) Gross weight in pounds and cubic feet if available.

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

(3) The Contractor shall—

(a) Include on this report the substance of this paragraph (d), in each subcontract or purchase orders under this contract, except those described in paragraph (e).

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

(1) Carriages carried in vessels or as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the laws or regulations of the foreign country involved;

(3) Shipment of classified supplies when the classification prohibits the use of non-Government vessels; and

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

(i) This contract is—

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

(B) A construction contract; or

(ii) The supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the item when it subcontracts items for f.o.b. destination shipment); or

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

(2) Contingency operations.

(3) Exercises; or
(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.

19. APLICABLE LAW (OCT 1999)

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

20. SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2014)

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

(b) Definitions. As used in this clause:

(1) "Alaska Native Corporation (ANC)" means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska and in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1621 et seq.), which is considered a minority-owned economically disadvantaged business concern on the criteria at 43 U.S.C. 1629(c)(ii).

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

(3) "Commercial plan" means a subcontracting plan (including goals) that covers the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a pro-rata basis to the contract.

(4) "Master plan" means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans provided the master plan has been approved by the Contracting Officer.

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

(c) REQUIREMENTS. The offeror shall provide the following documentation:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and woman-owned small business concerns, subcontracting plans shall be submitted and negotiated with the Contracting Officer, the prime Contractor, and the subcontractors to the extent consistent with efficient contract administration.

(i) Source lists (including ANC and Indian tribes), including:

(A) Whether the small business concern was solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether woman-owned small business concerns were solicited and, if not, why not, and

(G) If applicable, the reason award was not made to a small business concern.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, including small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(d) Records of internal guidance and encouragement provided to buyers through training and education programs.

(2) If applicable, the reason award was not made to a small business concern.

(e) Sources of subcontracting. The solicitation shall contain the name, address, and business size of each subcontractor. Contractors having commercial plans need not separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(f) A statement of the types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to small business concerns.

(1) Veteran-owned small business concerns;

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

(3) HUBZone small business concerns;

(4) Small disadvantaged business concerns; and

(5) Women-owned small business concerns.

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

(h) A description of the method used to identify potential sources for solicitation purposes (e.g., through the use of the U.S. Government's Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and woman-owned small business trade associations). A firm may rely on the information contained in SAM concerning the size and ownership characteristics for the purposes of determining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or identifying subcontracting opportunities) in this clause.

(i) 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-

(1) Small business concerns (including ANC and Indian tribes);

(2) Veteran-owned small business concerns;

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

(4) HUBZone small business concerns; and

(5) Women-owned small business concerns.

(j) The name of the individual employed by the offeror who will administer the offeror's subcontracting plan, and a description of the duties of the individual.

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

(l) Assurances that the offeror will comply with the contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns) to have a subcontracting plan that complies with the requirements of this clause.

(m) The offeror's plan for ensuring that subcontractors assigned to the offeror to the Government, including the name, address, and business size of each subcontractor.
and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor’s list of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors is excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provided adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all ‘make-or-buy’ decisions.

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

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

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that a concern is not entitled to. The Government shall have the right to require a subcontractor to submit evidence of its business status, including evidence of its approval, to the Contracting Officer; and

(6) Prior to completion of the offer with other such subcontracting plans under previous contracts, which will be considered by the Contracting Officer to determine the response of the offeror for award of the contract.

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

B. A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting activities for the prime contract. The offeror shall submit one SSR in eSRS for all contracts covered by its commercial plan. This report shall be submitted within 30 days after the end of the Government’s fiscal year.

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

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

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

22. REPORTS (OCT 1999)

The contractor shall furnish intermediate reports to the Laboratory from time to time, when requested, in such form and number as may be required by the Laboratory, summarizing activities for which credit may be taken under Executive Orders-Commercial Items, or when the subcontractor provides a commercial item and is performing work for more than one executive agency, the contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

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 53.404-3, on the date of agreement on price or the date of award, whichever is later, for any pricing adjustment involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 53.404-3, the contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 53.408, Table 52-2 (to include any information reasonably required to explain the subcontractor’s estimating process such as assumptions, factors applied, and other data or other information, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 53.408-3 applies.

(b) The contractor shall require the subcontractor to certify in substantially the form prescribed at FAR 53.408-3 that the subcontractor, unless otherwise directed by the agency to which this contract is subject, is responsible for, and has given appropriate consideration to, any subcontract to which a labor dispute may delay the timely performance of this contract.

(c) The contractor shall require the subcontractor to certify in substantially the form prescribed at FAR 53.408-3 that the subcontractor, unless otherwise directed by the agency to which this contract is subject, is responsible for, and has given appropriate consideration to, any subcontract to which a labor dispute may delay the timely performance of this contract.

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

(a) Upon receipt of accelerated payments from the Government, the contractor shall make payments to its subcontractors in accordance with the requirements of this subcontract under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the provisions of the Prompt Payment Act.

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

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

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

(1) Nullified if any subcontractor involved in a subcontract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 53.404-3, on the date of agreement on price or the date of award, whichever is later, is not a small business, and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 53.404-3, on the date of agreement on price or the date of award, whichever is later, for any pricing adjustment involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 53.404-3, the contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 53.408, Table 52-2 (to include any information reasonably required to explain the subcontractor’s estimating process such as assumptions, factors applied, and other data or other information, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 53.408-3 applies.

(c) The contractor shall require the subcontractor to certify in substantially the form prescribed at FAR 53.408-3 that the subcontractor, unless otherwise directed by the agency to which this contract is subject, is responsible for, and has given appropriate consideration to, any subcontract to which a labor dispute may delay the timely performance of this contract.

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

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—
(1) The Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data.

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

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

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(c) (1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the matters of defense as a defense.

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

(iii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective, the contract price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(iv) The Contractor’s Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

An offset shall not be allowed—

(A) The Contractor certifies to the Contracting Officer that, to the best of its knowledge and belief, the Contractor is entitled to 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.

An offset shall not be allowed if—

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

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective, the contract price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

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

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

(c) Except 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—

(i) (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 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.

(ii) An offset shall not be allowed if—

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

(B) The Government proves that the facts demonstrate that the contractor or subcontractor did not use the data it submitted in the pricing of the contract.
30. EXCUSABLE DELAYS (OCT 1999)

(a) Except for defaults of subcontractors at any tier, the contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes are (1) acts of God or of the Government, (2) acts or omissions of the Government in either its sovereign or contractual capacity, (3) fires, floods, (4) epidemics, (5) quarantine restrictions, (6) strikes, (7) freight embargoes, (8) unusually severe weather conditions, (9) the failure to perform must be beyond the control and without the fault or negligence of the contractor. “Default” includes failure to make progress in the work so as to avoid performance delays.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be deemed to be in default, unless—

(1) The subcontracted supplies or services were obtained from other sources; or

(2) The subcontractor is no longer performing under its subcontract.

(c) The contractor failed to comply reasonably with this order.

(d) Upon request of the contractor, the Laborator will ascertain the facts and extent of the failure, and the Laborator determines that any performance results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Laborator under the termination clause of this contract.

(e) Of the State, territory, and political subdivision in which the work under this contract is performed.

31. INSPECTION OF SUPPLIES—COST-REIMBURSEMENT (MAY 2001)

(a) Definitions. As used in this clause—

“Contractor’s managerial personnel” means any of the contractor’s directors, officers, managers, supervisors, or equivalent representatives who have supervision or direction of—

(1) All or substantially all of the contractor’s business;

(2) All or substantially all of the contractor’s operation at a plant or separate location where the contract is being performed;

(b) A separate and complete major industrial operation connected with performing this contract.

“Supplies” includes but is not limited to raw materials, components, intermediate assemblies, end products, lots of supplies, and, when the contract does not include the Warranty of Data clause, data.

(c) The contractor shall provide and maintain an inspection system acceptable to the Laborator covering the supplies, manufacturing methods, and special tools under this contract. Complete records of all inspection work performed by the contractor shall be maintained and made available to the Laborator during the contract performance and for at least 7 years after the performance completes.

(d) The Laborator’s right to inspect and test the contract supplies, to the extent practicable at all places and times, including the period of manufacture, and in any event before acceptance. The Laborator may also test the plants or plants of the contractor or any subcontractor engaged in the contract performance. The Laborator shall perform inspections and tests in a manner that will not unduly delay the work.

(e) If the Laborator performs inspection and tests on the premises of the contractor or a subcontractor, the contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(f) Unless otherwise specified in the contract, the Laborator shall accept supplies as promptly as possible after delivery, and, unless otherwise specified, accept supplies delivered 60 days after delivery, unless earlier.

(g) At any time during contract performance, but no later than 6 months (or such other time as may be specified in the contract) after acceptance of the supplies to be delivered under the contract, the Laborator may require the contractor to replace or correct any supplies that are nonconforming at time of delivery. When the defective material in material or workmanship or are otherwise not in conformity with contract requirements. Except as otherwise provided in paragraph (f), the contractor shall not be entitled to reimbursement for materials or labor when the cost of replacement or correction shall be included in allowable cost, determined as provided in the Allowable Cost Definitions.

(h) In making any determination under paragraph (c), (d), or (e) of this clause, the Laborator nevertheless may take such action as is necessary to complete an audit, investigation, or inspection.

(i) The contractor shall provide and maintain an inspection system acceptable to the Laborator covering the supplies, manufacturing methods, and special tools under this contract. Complete records of all inspection work performed by the contractor shall be maintained and made available to the Laborator during the contract performance and for at least 7 years after the performance completes.

(j) The contractor shall have no obligation or liability under this contract to replace or correct any supplies that are nonconforming at time of delivery. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements.

(k) If the contractor fails to provide reasonable promptness to perform required replacement or correction, the Laborator may—

(1) By contract or otherwise, perform the replacement or correction and charge to the contractor any increased cost or make an equitable reduction in any fixed price fee paid or payable under the contract,

(2) Require delivery of undelivered supplies at an equitable reduction in any fixed price fee paid or payable under the contract;

(l) Terminate the contract for default.

(l) The contractor may assign this contract to a successor operator of the Laborator.

(m) Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred without the written consent of the Laborator.

(n) “Contractor’s managerial personnel” means any of the contractor’s directors, officers, managers, supervisors, or equivalent representatives who have supervision or direction of—

(1) All or substantially all of the contractor’s business;

(2) All or substantially all of the contractor’s operation at a plant or separate location where the contract is being performed;

(o) A separate and complete major industrial operation connected with performing this contract.

32. PERMITS OR LICENSES (OCT 1999)

Except as otherwise directed by the Laborator, the contractor shall procure all necessary permits or licenses required by all applicable laws, regulations, and ordinances of the United States and of the State, territory, and political subdivision in which the work under this contract is performed.

33. SUBCONTRACTS (OCT 2010)

(a) Definitions. As used in this clause—

“Cost-plus type subcontract” means a subcontractor’s purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

“Contract to subcontract” means the ‘written consent for the contractor to enter into a particular subcontract.”

“Subcontract” means any contract, as defined in FAR Subpart 2.1, entered into by the contractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the contractor has an approved purchasing system, the contractor nevertheless shall obtain written consent of the Laboratory Procurement Official before placing the following subcontracts:

(e) (1) The contractor shall notify the Laboratory Procurement Official reasonably in advance of placing permanently any subcontract that exceed $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(f) Unless the laborator agrees to the subcontract, the contractor may not place the subcontract.

(g) If the contractor fails to provide reasonable promptness to perform required replacement or correction, the Laborator may—

(1) By contract or otherwise, perform the replacement or correction and charge to the contractor any increased cost or make an equitable reduction in any fixed price fee paid or payable under the contract;

(2) Require delivery of undelivered supplies at an equitable reduction in any fixed price fee paid or payable under the contract;

(h) Terminate the contract for default.

(i) The contractor shall have no obligation or liability under this contract to replace or correct any supplies that are nonconforming at time of delivery. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements.

(j) If the contractor fails to provide reasonable promptness to perform required replacement or correction, the Laborator may—

(1) By contract or otherwise, perform the replacement or correction and charge to the contractor any increased cost or make an equitable reduction in any fixed price fee paid or payable under the contract;

(2) Require delivery of undelivered supplies at an equitable reduction in any fixed price fee paid or payable under the contract;

(l) Terminate the contract for default.

(m) The contractor shall give the Laboratory Procurement Official immediately written notice of the subcontract and the name of the subcontractor to whom the contract is to be assigned. If the subcontract is funded under the Recovery Act.

(n) The Laborator reserves the right to review the contractor’s purchasing system as set forth in FAR Subpart 4.4.

34. ASSIGNMENT (OCT 1999)

Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the contractor except as expressly authorized in writing by the Laborator. The Laborator may direct the contractor to assign this contract or any interest therein to the Government or its designee. The Laborator may assign this contract to a successor operator of the Laborator.

35. SUBCONTRACTS FOR COMMERCIAL ITEMS (APR 2015)

(a) Definitions. As used in this clause—

“Commercial item” is 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) To the maximum extent practicable, the contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) The contractor shall insert the following clauses in subcontract for commercial items.

(i) 52.219-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (81 Adv): If the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate party or parties, the contractor shall identify, to the contractor or subcontractor at any tier.

(ii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637(b)(1)), if the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate party or parties, the contractor shall identify, to the contractor or subcontractor at any tier.
The Contractor shall include the terms of this clause, including this paragraph (d), in any subcontract awarded under this contract.

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

36. PROPERTY (JAN 2013)

(a) Fostering of Government property. The Laboratory reserves the right to furnish any property or services required for the performance of the work under this contract.

(b) Title to property. Except as otherwise provided by the Laboratory Procurement Official, title to all materials, equipment, supplies, and tangible personal property of every kind and description purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass directly from the vendor to the Government. The Laboratory reserves the right to inspect, and to accept or reject, any item of such property. The Contractor shall make such disposition of rejected items as the Laboratory Procurement Official shall direct. Title to other property, the use of which is reimbursable to the Contractor under this contract, shall pass directly from the vendor to the Government, nor shall such Government property or any part thereof, be or become a fixture or lose its identity as personality by reason of affixation to any realty.

(c) Procedure for loss of Government property. In the event of any damage, destruction, or loss to Government property resulting from conduct for which the Contractor is liable, the Contractor shall promptly notify the Government Procurement Official in writing. The Contractor shall give the Government an immediate accounting of all government property in its possession under the contract. The Contractor's property management system shall be submitted to the Laboratory Procurement Official for approval and shall be maintained and administered in accordance with sound business practice, applicable Federal Property Management Regulations and Department of Energy Property Management Regulations, and such directives or instructions which the Contracting Officer may from time to time prescribe.

(d) Government property for Government use only. Government property shall be used only for performance of the work under this contract.

(e) Protection of government property — management of high-risk property and classified property.

(i) High-risk property is property, the loss, destruction, damage to, or the unintended or premature transfer of which could pose risks to the public, the environment, or the national security interests of the United States. High-risk property includes proliferationsensitive nuclear, radiological, chemical, or biologically or radiologically contaminated, hazardous, and specially designed and prepared property, including property identified by the military critical technologies list.

(ii) The Contractor shall be liable for the loss or destruction of, or damage to, Government property, the loss of which results from conduct for which the Contractor is liable, by any of the following:

(A) Willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(B) Failure of the Contractor's managerial personnel to take all reasonable steps to avoid or prevent a preventable wrong direction of the Contracting Officer to safeguard such property under paragraph (e) of this clause.

(C) Failure of contractor managerial personnel to establish, administer, or properly maintain an approved property management system in accordance with paragraph (d)(2) of this clause.

(iii) If, after an initial review of the facts, the Laboratory Procurement Official concludes that the Contractor has no reason to believe that the loss, destruction of, or damage to the government property results from conduct falling within one of the categories set forth above, the burden of proof shall be upon the Contractor to prove by a preponderance of the evidence that the Contractor's negligence or the negligence of its employees was not a contributing factor in causing or contributing to the loss, destruction, or damage.

(iv) In the event that the Contractor is held liable for the loss, destruction or damage to Government property in accordance with (f)(1) of this clause, the Contractor's compensation to the Government shall be determined as follows:

(I) For damaged property, the compensation shall be the fair market value of such property at the time of such loss or destruction, plus any costs incurred for temporary replacement of the damaged property as provided in paragraph (f) of this clause.

(II) For lost or destroyed property, the compensation shall be the fair market value of such property at the time of such loss or destruction, plus any costs incurred for temporary replacement and costs associated with the disposition of destroyed property, if a fair market value of the property does not exist, the Laboratory Procurement Official shall determine the value of such property, consistent with all relevant facts and circumstances.

(v) The portion of the cost of insurance obtained by the Contractor that is allocable to government property is reduced by the amount (found at 40 U.S.C. chapter 37). This clause is not applicable.

(vi) Steps to be taken in event of loss. In the event of any damage, destruction, or loss to Government property in the possession or custody of the Contractor with a value above the threshold set out in the Contractor's approved property management system, the Contractor shall:

(1) Immediately inform the Laboratory Procurement Official of the loss, damage, or destruction;

(2) Take all reasonable steps to prevent the property remaining, and

(3) Shall repair or replace the damaged, destroyed, or lost property in accordance with (2) of paragraph (c) of this clause.

(vii) Property management system. The Contractor shall incorporate into its property management system:

(A) A comprehensive coverage of property from the receipt and acceptance through the final disposition, including all aspects of accountability in accordance with paragraph (f) of this clause.

(B) Full integration with the Contractor's other administrative and financial systems.

(C) A method for continuously improving property management practices through the identification of best practices established by "best in class" authorities.

(viii) Approval of the Contractor's property management system shall be contingent upon the completion of the baseline inventory as provided in subparagraph (v)(v) of this clause.

(e) Government property for Government use only. Government property shall be used only for performance of the work under this contract.

10 U.S.C. 2302 Note)
and shall make them available to the Government until 3 years after contract completion. The records shall contain the name and address of each employee; social security number, labor classifications, hourly rates of wages paid, weekly number of hours worked, deductions made, and actual wages paid. The records need not duplicate those required for construction work by Department of Labor regulations at 29 CFR 5.5(a)(3) implementing the Construction Wage Rate Requirements statute.

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

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

39. INTEGRITY OF UNIT PRICES (OCT 2010)

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

(a) Any proposal submitted for the negotiation of proposed item(s) of supplies shall distribute costs with contracts on a basis that the unit prices are in proportion to such items’ base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distills unit prices to the lowest level acceptable in line items is not acceptable except when there is little or no variation in base cost. Notwithstanding, this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.

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

(c) The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold in FAR Part 2, construction or architect-engineer services, construction contracts (excluding construction of Federal facility), Federal facility, the contractor will specify or deliver EnergyStar® qualified products or products that meet Energy Consuming Products Leadership in Environmental, Energy, and Economic Performance or FEMP at http://energy.gov/sites/prod/files/23.0_EO_13514_Federal_Leadership_in_Energy%2C_Energy_and_Economic_Performance.pdf.

40. WARRANT OF SERVICES (MAY 2001)

(a) Definition. “Acceptance,” as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes, for itself or as an agent of the Federal, the ownership of existing and identical supplies, or approves specific prices, as partial or complete performance of the contract.

(b) Regarding inspection and acceptance by the Laboratory or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Laboratory Procurement Official shall give written notice of any defect or nonconformance to the Contractor within 30 days from the date of acceptance by the Laboratory. This notice shall state either: (1) That the Contractor shall correct or reperform any defective or nonconforming services; or (2) That the Laboratory does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, it shall be at no cost to the Laboratory, and any services corrected or reperformed in accordance with this contract shall be at a cost to the Laboratory to the same extent as work initially performed. If the Contractor fails or refuses to correct or reperform, the Laboratory Procurement Officer may, by contract or otherwise, correct or reperform such services and charge the cost so occasioned to the Contractor thereby, or make an equitable adjustment in the contract price.

(d) If the Contractor does not require correction or reperformance, the Laboratory Procurement Official shall make an equitable adjustment in the contract price.

41. WARRANT OF SUPPLIES (JUN 2014)

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

When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the contractor shall deliver ENERGY STAR® qualified products or products conforming to the Federal Energy Management Program’s (FEMP) Energy Efficiency Requirements where such requirements are applicable in such specification, provided products with such designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for Energy STAR at http://www.energystar.gov/products and FEMP at http://www.eere.energy.gov/gpm/procurement/eeq_requirements.cfm.

When the contract requires the specification or delivery of laboratory equipment, copiers, digital duplicators, facsimile machines, mailing machines, multifunction devices, printers, or scanners, the clause at FAR 52.223-12, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) shall apply.

When the contract requires the specification or delivery of televisions, the clause at FAR 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) shall apply, or its Alternate I.

When the contract calls for the specification or delivery of personal computer products, the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (June 2014) shall apply.

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, unless paragraph (c) of this clause is replaced with similar services and charge to the Contractor the cost occasioned to the Laboratory.

42. BUY AMERICAN ACT – SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause:

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

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

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

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

(iii) Offered to the Government directly, or to any tier, without modification, in the same form in which it is sold in the commercial marketplace.

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(d), such as agricultural products and petroleum products.

"Component" means an article, material, or supply incorporated directly into an end product. "Cost of components" means--

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

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition. This includes all labor, material, overhead, overhead plus a reasonable profit margin, and all other direct and indirect costs allocable to the manufacture of the component. Cost of components does not include any costs associated with the manufacture of the end product.

"Domestic end products"—

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

(2) A manufacturing or production process for domestic end products that expands the amount of the liability claimed exceeds the amount of coverage; and

(iii) Authorized Laboratory, or Contractor or any tier, to settle or defend the claim and to represent the contractor or in or to take charge of any litigation, if required by the Laboratory or the Government, when the liability is not insured or covered by bond. The contractor may, at its own expense, be associated with the Laboratory or Government representatives in any such claim or litigation.
(a) The contractor agrees to notify the Laboratory of any State or local tax, fee, or charge levied or purported to be levied on or collected from the contractor with respect to the contract work, any transaction thereunder, or property in the custody or control of the contractor and containing an allowable item of State or local tax, fee, or charge, but which the contractor believes in good faith to reason to believe, or the Laboratory has advised the contractor, is or may be incompatible or inapplicable to the contractor furthering the purposes of the clause, unless authorized in writing by the Laboratory. Any State or local tax, fee, or charge paid with the approval of the Laboratory, or on the basis of advice from the Laboratory that such tax, fee, or charge is applicable and which would otherwise be an allowable cost, shall not be disallowed as an item of cost by reason of any subsequent ruling or determination that such tax, fee, or charge is not applicable, but the costs that may continue for a reasonable time with the approval of or as directed by the Laboratory. However, the Contractor shall discontinue those costs as rapidly as practicable.

(b) The contractor agrees to take such action as may be required or approved by the Laboratory to cause any State or local tax, fee, or charge which would be an allowable cost to be paid under protest; and to take such action as may be required or approved by the Laboratory to seek recovery of any payments made, including assignment to the Laboratory of any rights to a reimbursement, out of the proceeds of any settlement, and grants taxes, fees, or charges paid in accordance with this clause, the procedures and requirements of the clause entitled "Litigation and Claims" at DEAR 810.520-5.0 and shall apply and the costs and expenses incurred by the contractor shall be reimbursed by the Laboratory, to the extent that the contractor shall be entitled to obtain the funds, to the extent that the contractor shall be entitled to obtain the funds, together with any judgment rendered against the contractor.

(c) The contractor shall hold harmless from penalties and interest incurred through compliance with this clause. All recoveries or credits in respect of the foregoing taxes, fees, and charges (including interest) shall inure to and be for the sole benefit of the Laboratory.

46. TERMINATION (COST-REIMBURSEMENT) [MAY 2004]

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

1. The Laboratory Procurement Official determines that a termination is in the Government's interest; or
2. The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Laboratory Procurement Official) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

(b)(1) The Laboratory Procurement Official shall terminate by delivering to the Contractor a Notice of Termination specifying whether the termination is for the convenience of the Government, the extent of termination, and the effective date. If, after termination for default, it is determined that the contractor was not in default or that the contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the contractor as set forth in the Excusable Delays clause, the rights and obligations of the contractor shall be as if the termination was for the convenience of the Government.

(c)(1) After receipt of a Notice of Termination, and except as directed by the Laboratory Procurement Official, the Contractor shall immediately proceed with the following obligations, regardless of any delay in adjusting or adjusting any amounts due under this clause:

(i) All payments, procedures and requirements of the clause entitled "Litigation and Claims" at DEAR 810.520-5(0) shall apply and the costs and expenses incurred by the contractor shall be reimbursed by the Laboratory, to the extent that the contractor shall be entitled to obtain the funds, together with any judgment rendered against the contractor.

(ii) The cost principles and procedures in Part 13 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(iii) The condition under which the Contractor has the right of appeal will not be lost by reason of the contractor deciding to withdraw from any appeal or if no timely appeal has been taken.

(iv) The amount finally determined on an appeal shall be debarred if—

A. Unliquidated advances or other payments to the Contractor, under the terminated portion of this contract; or
B. Any claim which the Laboratory has against the Contractor under this contract; and
C. The approx. price for, or the proceeds of sale of materials, supplies, or other things not yet transferred or disposed of by the Contractor under this contract, credited to the price or cost of the work, or paid in advance of delivery or payment; or
D. Any other manner directed by the Laboratory. If, after the Contractor has submitted the portions of the contract under the terminated portion of this contract; or
E. Any cost or expense incurred by the Contractor for the terminated portion of the contract; or
F. The cost of settling and paying termination settlement proposals under terminated subcontract efforts included in subcontractors' termination proposals, less previous payments for fee.

(v) If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered to and accepted by the Laboratory is to the total number of articles (or amount of services) to be delivered by the Contractor under this contract.

(vi) If the settlement includes any fee, it will be determined under paragraph (h)(4) of this clause.

(vii) All costs reimbursable under this contract shall be included in the total cost of the contract and the Contractor shall be paid in accordance with the Federal Acquisition Regulation, in effect on the date of this contract.

(viii) The Laboratory may, under the terms and conditions it prescribes, make partial payments and settlements; and a partial payment or settlement of the terminated portion of the contract, if the Laboratory Procurement Official believes the total of these payments will not exceed the amount to which the Contractor will be entitled. If the total payment is deemed to be due, the Contractor shall repay the excess to the Contractor and shall be entitled to interest on the lesser of the excess repayment to the Contractor at the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's settlement termination proposal because of reduction or other disposition of termination inventory. The provisions of this clause shall govern any equity adjustment in fee for the continued portion of the contract when there is a partial termination. The Laboratory shall award the Contractor the amount to which it is entitled by the Competitive Acquisition Regulation, the Contractor may submit to the Laboratory a claim or a contract or subcontract entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind. The "Prime Contractor" as used in this clause, means a person who has entered into a prime contract with the United States.
The Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by subcontractors directly to the Government of any item or process (including computer software) made of furnished by the subcontractor under this contract or under any follow-on production contract.

The contractor, as soon as possible but not later than ninety (90) days after the expiration of this fiscal year, or such other period as may be specified in the contract, shall submit to the Labor Secretary, with a copy to the cognizant audit agency, a reconciliation of overhead rates by the contractor. The Labor Secretary shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

The contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by subcontractors directly to the Government of any item or process (including computer software) made of furnished by the subcontractor under this contract or under any follow-on production contract.

The contractor, as soon as possible but not later than ninety (90) days after the expiration of this fiscal year, or such other period as may be specified in the contract, shall submit to the Labor Secretary, with a copy to the cognizant audit agency, a reconciliation of overhead rates by the contractor. The Labor Secretary shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

The contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by subcontractors directly to the Government of any item or process (including computer software) made of furnished by the subcontractor under this contract or under any follow-on production contract.

The contractor, as soon as possible but not later than ninety (90) days after the expiration of this fiscal year, or such other period as may be specified in the contract, shall submit to the Labor Secretary, with a copy to the cognizant audit agency, a reconciliation of overhead rates by the contractor. The Labor Secretary shall be undertaken as promptly as practicable after receipt of the contractor's proposal.

The contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by subcontractors directly to the Government of any item or process (including computer software) made of furnished by the subcontractor under this contract or under any follow-on production contract.

The contractor, as soon as possible but not later than ninety (90) days after the expiration of this fiscal year, or such other period as may be specified in the contract, shall submit to the Labor Secretary, with a copy to the cognizant audit agency, a reconciliation of overhead rates by the contractor. The Labor Secretary shall be undertaken as promptly as practicable after receipt of the contractor's proposal.
51. LIMITATION OF FUNDS (APR 1984)

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

(b) The Schedule specifies the amount presently available for payment by the Laboratory and allotted to this contract, the items covered, the Laboratory’s share of the cost if it is a cost-sharing contract, and the period during which a specified amount of additional funds will be available. The parties contemplate that the Laboratory will allocate additional funds incrementally to the extent as up to the amount specified in the Schedule or the contractor specified in the Schedule, subject to any exclusivity of any fee. The contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Laboratory under contract is equal to the total amount actually allotted to the Laboratory under this contract.

(c) The contractor shall notify the authorized Laboratory Procurement Official in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the Laboratory under this contract, or (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Laboratory plus the contractor’s corresponding share.

(d) Except as required by other provisions of this contract, specifically citing and stated to be an exception, the Laboratory is not obligated to reimburse the contractor for costs incurred in excess of the amount presently available for payment by the Laboratory and allotted to this contract, whether incurred during the course of the contract or as a result of termination.

52. LIMITATION OF COST (APR 1984)

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

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

1. The costs the contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule, or
2. The total cost for the performance of this contract, exclusive of any fee, will be either not less than or substantially less than that estimated in the Schedule.

(c) As part of the notification, the contractor shall provide the authorized Laboratory Procurement Official a revised estimate of the costs the contractor expects to incur in performing the contract.

(d) Except as required by other provisions of this contract, specifically cited and stated to be an exception, the Laboratory is not obligated to reimburse the contractor for costs incurred in excess of (i) the estimated cost specified in the Schedule, or (ii) if this is a cost-sharing contract, the estimated cost specified in the Schedule or (iii) if this is a cost-sharing contract, the share of the estimated cost specified in the Schedule.

(e) The contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Laboratory under contract is equal to the total amount actually allotted to the Laboratory under this contract.

(f) The contractor shall notify the authorized Laboratory Procurement Official in writing whenever it has reason to believe that:

1. The costs the contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule, or
2. The total cost for the performance of this contract, exclusive of any fee, will be either not less than or substantially less than the amount allotted by the Laboratory to the contract, whether incurred during the course of the contract or as a result of termination.

53. ALLOWABLE COST AND PAYMENT (JUN 2011)

(a) Invoicing

1. The Laboratory will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more than once every 2 weeks, in amounts determined to be allowable by and in accordance with the Terms and Conditions of this contract.

(b) The Contractor shall not be reimbursed for costs that are incurred in excess of the estimated cost specified in the Schedule.

(c) The Contractor shall establish the final indirect cost rates as promptly as practical for the period specified in the Schedule. The appropriate Government representative and the Contractor shall support its proposal with adequate supporting data.

(d) The Contractor shall establish the final indirect cost rates as promptly as practical for the period specified in the Schedule. The appropriate Government representative and the Contractor shall support its proposal with adequate supporting data.

(e) Change orders shall not be considered an authorization to exceed the estimated cost to the Laboratory specified in the Schedule, unless they contain a statement increasing the estimated cost.

(f) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate in good faith the disposition of any property produced or purchased under the contract, based upon the share of costs incurred by each.
(G) Reconciliation of books of account (i.e., General Ledger) and claimed direct costs by major cost element.

(H) Schedule of direct costs by contract and subcontract and indirect cost expense applied at claimed rates, as well as a subsidiary schedule of Government's participation percentages in each of the allocation base amounts.

(I) Schedule of cumulative direct and indirect costs claimed and billed by contract and subcontract in effect whose time and payment shall be completed.

(J) Subcontract information. Listing of subcontracts awarded to companies for which the contractor is the prime or upper-tier contractor (include prime and subcontract numbers; subcontract value and award type; amount claimed during the fiscal year; and the subcontractor's name, address, and point of performance).

(K) Summary of each time-and-materials and labor-hour contract information, including labor categories, labor rates, hours, and amounts; direct materials; other direct costs, and, indirect expense applied at claimed rates.

(L) Reconciliation of all payments per IRS Form 941 to total labor costs distribution.

(M) Listing of decisions/agreements/approvals and description of accounting/organizational changes.

(N) Certificate of final indirect costs (see 52.242-4). Certification of Final Indirect Costs.

(O) Contract closing information for contracts physically completed in this fiscal year, or for contracts of final performance, contract ceiling amounts, contract fee computations, level of effort, and indicate if the contract is ready to close.

(P) The following supplemental information is not required if determined to be a proposal, is appropriate but may be required during the audit process:

(A) Analytical review of indirect expense pools detailed by account to prior fiscal year and budgetary data.

(B) General Organizational information and Executive compensation for the five most highly compensated executives. See 31.305-6(i).

(C) Additional salary reference information is available at the Contractor's procurement index exec comp.

(D) Determination of prime contracts under which the contractor performs as a subcontractor.

(E) Description of accounting system (excludes contractors where the procedures have not changed from the previous year's submission).

(F) Procedures for identifying and excluding unfavorable costs from the costs claimed and billed (excludes contractors where the procedure has not changed from the previous year's submission).

(G) Certified internal control and other financial data (e.g., trial balance, compilation, review, etc.).

(H) Management letter from outside CPAs concerning any internal control weaknesses.

(I) Actions that have been and will be implemented to correct the weaknesses identified in the management letter from subparagraph (G) of this section.

(J) List of all internal audit reports issued since the last disclosure of internal audit reports to the Government.

(K) Annual internal audit plan of scheduled audits to be performed in the fiscal year when the final indirect cost rate submission is made.

(L) Federal and State income tax returns.

(M) Securities and Exchange Commission 1-K annual report.

(N) Minutes from board of directors meetings.

(O) Listing of delay claims and termination claims submitted which contain information on the accounting/organizational changes.

(P) Contract modifications which generally include a synopsis of all pertinent contract provisions, such as: contract type, contract amount, product or services to be provided, contract performance, rate ceilings, advance approval requirements, pre-contract cost allowance limitations, and billing limitations.

(Q) The Contractor shall update the bills on all contracts to reflect the final settled rates and update the schedule of cumulative direct and indirect costs claimed and billed, as required in paragraph (O)(1)(ii) of this section, within 60 days after settlement of final indirect cost rates.

(R) The Government and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the rates to which the rates apply, (iii) the time periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or contracts and applicable contract provisions, advance approval agreements or other written agreements or terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understandings are required to be made within 60 days from the date of the Government's notification.

(S) Failure by the parties to agree on a final indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(T) Within 120 days (or longer period if approved in writing by the Laboratory Procurement Official after settlement of the final annual indirect cost rates for all years of a physically completed contract), the contractor shall submit a complete invoice or voucher to reflect the settled amounts and rates. The completion invoice or voucher shall include all subcontractor amounts and rates. The prime contractor is responsible for settling subcontractors amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the Laboratory Procurement Official.

(U) If the Contractor fails to submit a complete invoice or voucher within the time specified in paragraph (T) of this clause, the Laboratory Procurement Official may—

(A) Determine the amounts due to the Contractor under the contract, and

(B) Record this determination in a unilateral modification to the contract.

(V) This determination constitutes the final decision of the Laboratory Procurement Official as to the amounts due to the Contractor.

(W) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Laboratory Procurement Official or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates—

(1) Adjusted for prior overpayments or underpayments.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract and any amounts properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Laboratory Procurement Official. Before final payment under this contract, the Contractor and Government shall verify all claims under this contract in effect up to the time and payment shall be completed and delivered—

(A) An assessment shall be made to the Government, in form and substance satisfactory to the Laboratory Procurement Official, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Laboratory Procurement Official.

(B) Claims (including reasonable incidental expenses) based upon the Laboratory Procurement Official's notice of withdrawal of a contractor's charge or adjustment shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for which the contractor has been reimbursed by the Government or otherwise disposed of by the Contractor either as the Contracting Officer or otherwise. Any judgments or settlements shall be determined to be final and conclusive as to all enforcement claims or rights against the Contractor under the patents of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

54. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to furnish, by certified mail, written notification to the Laboratory Procurement Official giving notice that the contractor is ready to close. Such notice shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for which the contractor has been reimbursed by the Government or otherwise disposed of by the Contractor either as the Contracting Officer or otherwise. Any judgments or settlements shall be determined to be final and conclusive as to all enforcement claims or rights against the Contractor under the patents of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

55. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(1) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of Treasury, the Contractor shall not make any purchases (whether supplies, services, equipment, or other goods or property) from Cuba, Iran, Libya, Sudan, or Syria, or from any person or entity that directly or indirectly is at least 10% owned or controlled by a person or entity described above, unless such procurement is specifically authorized by law, regulation, or the OFAC's regulations at 31 CFR chapter V.

(2) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are embargoed, as are most imports from the above-listed countries into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at http://www.treas.gov/offices/enforcement/ofac/ and in the OFAC's regulations at 31 CFR chapter V. Information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V.

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

56. PROHIBITION OF SEGREGATED FACILITIES (APR 2015)

(a) Definitions. As used in this clause

(1) "Gender identity" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at 29 CFR Part 41.

(2) "Segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, recreation areas, entertainment areas, transportation, and housing faciliti es provided for employees, that are segregated by direct or indirect sex, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-sex rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(3) "Sexual orientation" has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at 29 CFR Part 41.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities as are or are not provided to its employees for their services at any location under its control where segregated facilities are provided for employees for the purpose of assuring that a breach of this clause is a violation of the Equal Opportunity Clause in this contract.

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

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

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

(b) Inspection and audit of accounts and records. All books of account and records relating to this contract shall be prepared in accordance with 29 CFR Part 4.11, as supplemented by DOE or its designee, in accordance with the provisions of Clause, Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and during the period of retention, and to the extent provided for in paragraph (d) of this clause.

(c) Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontractors (including fixed-price or unit-price subcontracts or purchase orders) where, in the contractor's discretion, it is found that applicable credits, negotiated fixed amounts, and fee accruals under this contract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract, other applicable credits, negotiated fixed amounts, and fee accruals under this contract, the contractor has been reimbursed by the Government or otherwise disposed of by the Contractor either as the Contracting Officer or otherwise, any judgments or settlements shall be determined to be final and conclusive as to all enforcement claims or rights against the Contractor under the patents of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.
for a period of three years after final payment under this contract or otherwise disposed of in such manner as may be agreed upon by the Government and the Contractor.

e. Reports. The Contractor shall furnish such periodic financial, cost reports, and other reports concerning the work under this contract as the Contracting Officer may from time to time require.

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

g. Subcontracts. The Contractor further agrees to require the inclusion of provisions similar to those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including those for the sale, lease, or service of items or items of property) entered into hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

h. Computed General.

1. The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine the books, records, and accounting methods of the Contractor or subcontractor to ascertain the correct amount payable to the subcontractor.

2. The Contractor shall also have the right to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

3. Nothing in this contract shall be deemed to preclude an audit by the Government Accountability Office of any transaction under this contract.

58. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

(a) Definitions. As used in this clause—

(1) Involuntary servitude. "Involuntary servitude" includes a condition of servitude induced by means of—

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

(3) Any scheme, plan, or pattern intended to cause a person to believe that, in the performance of an act would result in serious harm to or physical restraint against any person.

(b) The contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in all subcontracts at all tiers, for subcontracts involving 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 all subcontracts that—

(1) Relates to the performance of work for the DOE at DOE-owned or -leased sites;

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

(c) The contractor will forward to the contracting officer a copy of the evidentiary record, by the contracting officer thereafter, keep the LPO informed of the results of the investigation, and provide a written notice regarding substantive allegations against them, a description of the allegation and reasonable access to any evidence submitted to support the allegation or developed in response to an allegation and notice of any findings of research misconduct.

(d) Safeguards for information and subjects of allegations. The contractor shall provide safeguards to ensure that individuals may bring allegations of research misconduct made in good faith to the attention of the contractor without suffering retribution. Safeguards include protection against retaliation; fair and objective procedures for examining and resolving allegations; and diligence in protecting positions and reputations. The contractor shall also provide the subjects of allegations confidence that their rights will be protected and that the results of any investigation of research misconduct will not result in an adverse action. Safeguards include timely written notice, regard for the rights of all parties, a description of the allegation and reasonable access to any evidence submitted to support the allegation or developed in response to an allegation and notice of any findings of research misconduct.

(e) Objectivity and Expertise. The contractor shall select individual(s) to inquire, investigate, and adjudicate allegations of research misconduct who have appropriate expertise and have no unresolved conflict of interest. The individual(s) who conducts an adjudication must not be the same individual(s) who conducted the inquiry.

(f) Timelessness. The contractor shall coordinate, inquire, investigate and adjudicate allegations of research misconduct promptly, but thoroughly. Generally, an investigation should be completed within 120 days of initiation, and adjudication should be completed within 180 days of receipt of the investigation report.

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

(5) Remediation and correction. If the contractor finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in process. The contractor must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in process or to be conducted in the future. The contractor must coordinate remedial actions with the LPO. The contractor must also consider whether personnel sanctions are appropriate. Any such sanctions must be consistent with applicable personnel laws, policies, and procedures, and shall be taken into account the seriousness of the misconduct and its impact, whether it was intentional or reckless, and whether it was inadvertent. If it was an isolated event, it may take considerably longer (once obtained, an indices check is valid for two years).

(6) The Laboratory reserves the right to pursue such remedies and other actions as it deems appropriate, consistent with the terms and conditions of the award instrument and applicable laws and regulations. However, the contractor’s good faith administration of this clause and the effectiveness of its remedial actions and sanctions, if any, will be considered and shall be taken into account as mitigating factors in assessing the need for such actions. If the contractor fails to pursue necessary action to remedy the misconduct, it will inform the subject of the action of the outcome and any applicable appeal procedures.

(e) Definitions. "Assessment" means a formal review of a record of investigation of alleged research misconduct to determine whether and what corrective actions and sanctions should be taken. "Fabrication" means making up data or results and recording or reporting them. "Fatiguation" means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. "Finding of Research Misconduct" means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant departure from accepted practices of the relevant research community and that it be knowingly, intentionally, or recklessly committed. "Inquiry" means information gathering and initial fact-finding to determine whether an allegation of research misconduct warrants an investigation. "Investigation" means the formal examination and evaluation of the relevant facts. "Plagiarism" means the appropriation of another person’s ideas, processes, results, or words, without giving appropriate credit. "Research" means all basic, applied, and demonstration research in all fields of science, medicine, engineering, and related activities but not limited to, research in economics, education, linguistics, medicine, psychology, social sciences statistics, and research involving human subjects or animals. "Research Misconduct" means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, but does not include honest errors or differences of opinion. "Research record" means the record of all data or results that embody the facts resulting from scientists’ inquiries, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles. "Review Board" means the Board established by the Laboratory to provide oversight of the contractor’s review of allegations of research misconduct. "Sanction" means any disciplinary action, including reprimand, suspension, or termination.

The contractor must insert or have inserted the substance of this clause, including paragraph (g), in subcontracts at all tiers that involve research.

63. 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 reviewed and approved by the Laboratory Director or his designee. All new requests must be submitted on Form ANL-583. Non-U.S. citizens are either visitors (on site for 30 days or less) or assignees (on site for more than 30 days in a 12-month period). A certified host must be assigned for each visit or assignment. For non-U.S. citizens, the Laboratory reserves the right to issue an inspection. "Investigation" means the formal examination and evaluation of the relevant facts. "Plagiarism" means the appropriation of another person’s ideas, processes, results, or words, without giving appropriate credit. "Research" means all basic, applied, and demonstration research in all fields of science, medicine, engineering, and related activities but not limited to, research in economics, education, linguistics, medicine, psychology, social sciences statistics, and research involving human subjects or animals. "Research Misconduct" means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, but does not include honest errors or differences of opinion. "Research record" means the record of all data or results that embody the facts resulting from scientists’ inquiries, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles. "Review Board" means the Board established by the Laboratory to provide oversight of the contractor’s review of allegations of research misconduct. "Sanction" means any disciplinary action, including reprimand, suspension, or termination.

The contractor must insert or have inserted the substance of this clause, including paragraph (g), in subcontracts at all tiers that involve research.

64. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and/or information being transmitted under the performance of this contract may be subject to export control provisions of the U.S. Government. The contractor agrees to obtain any required 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) protected under a foreign national, by telephone or facsimile, through visits or workshops, or through computer networking is an export. If a foreign national observes equipment or a process, the contractor may constitute an export of technical data if the foreign national is not aware of the significant details or if the contractor has not intentionally directed the export. If a foreign national observes equipment, the contractor must notify the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

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

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is exempt from U.S. export control regulations, the Laboratory must be aware of all export control laws and regulations to ensure its compliance with export controls. An export can occur through a variety of means, including oral communications, written documentation, or 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. The Laboratory can be held liable for improperly transferring controlled technologies.

Prior to travel, 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

If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export. To further ensure that you do not run the risk of exporting sensitive information or technology when traveling abroad, keep all sensitive materials in mind that without having acquired an export license prior to your trip, presentations and discussions must be limited to those topics that are not on the Sensitive and Sensitive Technology List and are 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.

66. CONFLICTS IN 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.

67. RIGHTS TO PROPOSAL DATA (AUGUST 2001)

It is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice on the proposal, the Government shall have the right to use, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained within the proposal upon which this contract is based.

68. 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.

69. 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 or after the cause of action has arisen, whichever occurs first, the other contractor shall be barred from pursuing such action.

70. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

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

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

(a) Definitions. As used in this clause—

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

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

Text messaging means using a wireless device, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

3.8.2

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

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

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

(2) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
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 under development, or as directed by the Contracting Officer.

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 to the extent necessary to ensure the contractor’s compliance with these requirements.

74. SUSPECT COUNTERFEIT PARTS (DEC 2007)

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

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