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

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1. DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

(a) Applicability.

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

(b) Definitions.

(1) "Civilian displaced employee" means any person who, by virtue of a formal order of a court of competent jurisdiction or by a decision of an administrative law judge of the United States, has been determined to have been wrongfully discharged or laid off from employment with the contractor and who is, during the period of such discharge or layoff, seeking employment.

(2) "Employment plugging" means anyundue exertion of an improper influence to solicit employees or obtain work for a subcontractor.

(3) "Normal layoffs" means discontinuance of work with no notice or due regard to the employee's past services.

(4) "Subcontractor" means any person or company to whom the principal contractor has awarded a subcontract for the performance of any part of the work to be done under the contract.

2. COVENANT AGAINST CONTINGENT FEES (MAY 2014)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement of understanding for a contingent fee, except a bona fide employee or agent acting in the ordinary course of employment for the purpose of promoting the sale of the Contractor's goods, wares, merchandise, or services.

(b) Postings. The Contractor shall post in a conspicuous place and keep posted for a period of at least 10 working days the notice to be provided by the Contracting Officer advising the labor union or employees with disabilities of the availability of this clause and the right of employees to refer their complaints to the Equal Employment Opportunity Commission.

3. EQUAL OPPORTUNITY (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 www.dol.gov/ofccp/LBTG/LGBT_FAQs.html.

(b) "Bona fide agency," as used in this clause, means a normal layoff, or natural layoffs, for which the Contractor has no control.

(c) "Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success of a Government contract or the performance of such contract.

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

(e) "Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration to or to act regarding a Government contract on any basis other than the merits of the matter.

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

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

(a) General.

(1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities in the same manner as other applicants and employees.

(b) Postings.

(1) The Contractor agrees to post employment notices stating -- (i) the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and (ii) the rights of applicants and employees with disabilities.

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

(c) The Contractor shall, within 24 months of the date of this clause, ensure that a representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action for noncompliance, qualified individuals with disabilities.

(d) Informative notices. The Contractor agrees not to comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and orders of the Secretary issued pursuant to the Act.

5. EMPLOYMENT REPORTS ON VETERANS (FEB 2018)

(a) Definitions. As used in this clause, "active duty wartime or campaign badge veteran," "armed forces service medal veteran," "active duty veteran," and "recently separated veteran," have the meanings given in FAR 22.1301.

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Deputy Assistant Secretary of Labor, on:

(1) The total number of employees in the contractor's workforce, by job category and hiring location, who are protected veterans (i.e., active duty wartime or campaign badge veterans, armed forces service medal veterans, disabled veterans, and recently separated veterans);

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (i.e., active duty wartime or campaign badge veterans, armed forces service medal veterans, disabled veterans, and recently separated veterans); and

(3) The maximum number and minimum number of employees of the Contractor or any subcontractor who are covered by this clause.


(d) The Contractor shall submit VETS-101A Reports no later than September 30 of each year, unless the contractor is a State or local government agency.

(e) The Contractor shall file VETS-101A Reports for the reporting period ending on the date of the report, and shall reflect the employment status of any protected veteran in the report during the month in which the veteran has been hired or started work or such report was received.

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-4212. The contractor's knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran
status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

(g) The Contractor shall include the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

6. EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

(a) Definitions. As used in this clause—

"Active duty wartime or campaign badge veteran." "Armed Forces service medal veteran," "disabled veteran," "protected veteran," "qualified veteran," and "recently separated veteran" shall have the meanings given at 38 U.S.C. 512.

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-3.5(a)(1) and 41 CFR 60-7.2. The Contractor shall not discriminate against qualified protected veterans, and requires affirmative action by the Contractor to employ in and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts of $150,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. Subcontracts shall include the requirements of this clause, including this paragraph, as prescribed at 22.1803 in Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

7. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 13496 [NEW APR 2009]

(Appplies to contracts that exceed $10,000 in value.

The contractor and subcontractors are required to inform employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers, under which the contractor is the employer within the contractor's plants and offices so that the notice is prominent and readily seen by employees who are employed by the contractor in the contractor's plants and offices so that the notice is prominent and readily seen by employees who are employed by the contractor; (2) employees who are covered by the NLRA under which the contractor is the employer; (3) employees who have undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD) -12, Policy 8510.05, no later than 90 calendar days after the date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(3) of this section); or (4) employees assigned to the contract. For each employee assigned to the contract, the Contractor shall complete the verification process to determine the 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).

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including 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).

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


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

(d) The Contractor shall not be excused from its obligations under paragraph (b) of this clause. If the Contractor becomes involved in litigation with a subcontractor, or is suspended or debarred by the suspension or debarment official whether to suspend or debar, the Contractor shall notify the primary contracting agency and the suspension or debarment official whether to suspend or debar, the Contractor shall notify the primary contracting agency.

(e) The Contractor shall exercise the authority to exercise the option to verify employees assigned to the contract, to verify only employees assigned to the contract, 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).

(f) The Contractor will be referred to a suspension or debarment official.

10. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)

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

11. SECURITY (DEVIATION) (MAR 2011)

Responsibility. It is the Contractor's duty to protect all classified information, special nuclear material, and DOE Procurement System (ODPS) data in the Contractor's possession in connection with work under this contract, in accordance with any applicable regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with work under this contract. DOE needs to know the disposition of special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with work under this contract. In addition, the Contractor or subcontractor shall ensure that any individually retrievable unit of classified information or material is identified and protected in accordance with any applicable regulations and requirements.

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

(i) Definition of Classified Information. The term Classified Information means information that is classified Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection as classified information after the completion or termination of a contract.

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

(iii) The Contractor shall conduct a thorough review, as defined at 48 CFR 940.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.

(iv) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization is being concurrently processed.

(v) In addition to the review, each candidate for a DOE access authorization must be reviewed, random, or for cause testing for use of illegal drugs.

(vi) DOE is not required to advise the unclassified applicant or unclassified employee unless its tests confirm the absence of any illegal drug.

(vii) As a condition of employment for a position that requires a DOE access authorization, the individual is hired and placed in the position prior to receiving an access authorization, the individual is hired and placed in the position prior to receiving an access authorization.

(viii) The Contractor shall not place that individual in such a position prior to the individual's review by the DOE.

(iv) In addition to the review, each candidate for a DOE access authorization must be reviewed, random, or for cause testing for use of illegal drugs.

(v) In collecting and using this information to make a determination as to whether it is appropriate to select an unclassified applicant or unclassified employee to a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those: (a) governing the processing and privacy of an individual's information, and (b) prohibiting discrimination in employment.

(vi) In addition to the review, each candidate for a DOE access authorization must be reviewed, random, or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization until such time as the candidate confirms the absence of any illegal drug.

(vii) Therefore, the Contractor shall maintain a record of information concerning each unclassified applicant or unclassified employee who is selected for a position requiring an access authorization. Upon request only, the following information will be furnished to the head of the cognizant local DOE Security Office:

A. The date(s) each Review was conducted;
B. Each entity that provided information concerning the individual;
C. A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review.

(d) Determination that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and

(e) The results of the test for illegal drugs.

(i) Criminal liability. It is understood that disclosure of any classified information relating to the development, testing to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or DOE Procurement System (ODPS) data in the Contractor's possession in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States. 42 U.S.C. 2011 et seq. (18 U.S.C. 793 and 794). Contractors are encouraged to submit this clause to their Subcontractors for their agreement to accept the terms of this clause.

(ii) If a Subcontractor has completed the test required by this clause, it shall print and sign one copy of the SF 328 and submit it to the Contracting Officer.

(iii) Foreign Ownership, Control, or Influence.

A. The Contractor shall immediately provide the cognizant security office written notice of any contract award to a foreign-owned, or foreign-controlled United States company that is a Subcontractor.

B. The Contractor shall immediately notify the cognizant Security Office of any classified information or special nuclear material which, pursuant to 42 U.S.C. 2071 (Section 51 as amended, of the Atomic Energy Act of 1954), is protected as National Security Information. However, such information is subject to the DOE or its predecessor agencies and the Department of Defense that the information:

(1) Is specifically identified in the DOE or its predecessor agencies' national security information or special nuclear material under the Atomic Energy Act of 1954.

(2) Is recorded in the Restricted Data category as defined in 10 CFR 709.

(3) Is specifically identified in the DOE's regulations and contract requirements applicable to the particular level and category of classified information or special nuclear material to which access is required.

(4) The Contractor may terminate this contract for default if the Contractor allows a foreign-owned, foreign-controlled United States company to have access to classified information or special nuclear material, or DOE Procurement System (ODPS) data which were not subject to the DOE or its predecessor agencies and the Department of Defense that the information: (i) Is specifically identified in the DOE or its predecessor agencies' national security information or special nuclear material under the Atomic Energy Act of 1954.

(5) It shall maintain a record of information concerning each unclassified applicant or unclassified employee who is selected for a position requiring an access authorization. Upon request only, the following information will be furnished to the head of the cognizant local DOE Security Office:

A. The date(s) each Review was conducted;
B. Each entity that provided information concerning the individual;
C. A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review.

D. A determination that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and

E. The results of the test for illegal drugs.

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 the particular level and category of classified information or special nuclear material.

In this context, "information" means facts, data, or knowledge, and "information" means the physical form of information or a production of human intellect which contains or reveals information, regardless of its physical form or characteristics. Classified information is "Restricted Data" and "Formerly Restricted Data" classified under the Atomic Energy Act of 1954, as amended and the "National Security Information" classified under Executive Order 12958 or prior Executive Orders.

The original documentary classification or declassification is considered an inherently Government function and may not be subcontracted. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as derivative classifiers if the contractors and subcontractors of the DOE in the performance of work under this contract, in accordance with any applicable regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material and special nuclear material) which are in the Contractor's possession in connection with work under this contract.

The contractor or subcontractor shall also ensure that any document or material that may contain classified information is reviewed by either a Federal Government or contractor Classifier in accordance with classification regulations including mandatory DOE directives and classification/clasification guidance furnished to the contractor by the Department of Energy to determine whether it contains classified information prior to dissemination. For information which is not addressed by the classification/clasification guidance, the sensitivity of the material may be examined. The contractor of subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier.

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

(a) Definition. As used in this clause—
(d) 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—

(1) Delivered 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 submit the above referenced transportation documents to—


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


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

(a) Definitions. As used in this clause—International air transportation means transportation by air between a place in the United States and another place in the United States or between two places both of which are outside the United States.

(b) The Contractor shall use U.S.-flag air carriers for international air transportation secured abroad.

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

18. PREFERENCE FOR PRIVATELY OWNED U.S. -FLAG COMMERCIAL VESSELS (FEB 2006)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. App. 1241(b)(1)) requires that for all Federal departments and agencies the Contractor 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 (completed vessels, dry bulk carriers, oil tankers, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, is needed for, or destined to, a Federal department or agency.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to transport at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported by ocean vessels.

(c) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to the Contractor, and (i) The Contracting Officer, and

(ii) The: 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 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain 25 cargo accounting information:

(A) Sponsoring U.S. Government agency.

(B) Name.

(C) Vessel flag of registry.

(D) Date of loading.

(E) Port of loading.

(F) Port of unloading.

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

(H) Gross tonnage in long tons.

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

(j) The Contractor shall ensure that the substance of this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e) above, is included in all subcontracts or purchase orders under this contract.

(k) The requirement in paragraph (d) does not apply to—

(i) Vessels owned by or under the U.S. flag for international air transportation secured abroad.

(ii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(iii) Vessels carrying military supplies under a U.S. flag for international air transportation secured abroad.

(iv) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(v) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(vi) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(vii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(viii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(ix) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(x) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xi) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xiii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xiv) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xv) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xvi) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xvii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xviii) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xix) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(xx) Ships carrying military supplies under a U.S. flag for international air transportation secured abroad.

(1) Contingency operations.

(2) Exercises, or

(i) The contractor shall ensure that the substance of this paragraph (e), in all subcontracts or purchase orders under this contract, except those described in paragraph (e) above, is included in all subcontracts or purchase orders under this contract.
20. SMALL BUSINESS SUBCONTRACTING PLAN (APR 2016)

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

(b) Definitions. As used in this clause:

(1) “Alaska Native Corporation” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1621 et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 41 U.S.C. 166a(d).

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

(3) “Commercial plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the entire company or a portion thereof (including option periods). A statement of-

(A) Goals, expressed in terms of percentages of total planned subcontracting dollars, for subcontracting with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns; and

(B) A description of the method used to determine compliance with the requirements and goals in the plan, or as provided in agency regulations;

(4) “Contractor” means any person, firm, or legal entity, including any corporation or partnership, other than an individual, which has been awarded a contract or subcontract for the basic contract and separate parts for each option (if any). The reports shall include in and make a part of the resultant contracts.

21. APPLICABILITY OF THE SMALL BUSINESS SUBCONTRACTING REQUIREMENTS

(a) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The subcontracting plan shall be included in and made a part of the resultant contracts.

(b) The subcontracting plan shall be negotiated in cooperation with the ANC or Indian tribe, if applicable, as provided in agency regulations;

(c) The subcontracting plan shall be negotiated in cooperation with the ANC or Indian tribe, if applicable, and comply with this requirement.

(d) The subcontracting plan shall be negotiated in cooperation with the ANC or Indian tribe, if applicable, and comply with the requirements and goals in the plan.

(e) Contractors having commercial plans need not comply with this requirement.

22. GENERAL PROVISIONS

(a) Except as otherwise provided in this clause, the offeror’s subcontracting plan shall be included on the Notice of Intent to Bid.

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

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

(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 women-owned small business concerns, and goals that are based on 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 prorated basis to the entire company or a portion thereof (including option periods).

(2) A statement of-

(A) The offeror’s total projected sales, expressed in dollars, and the total value of business conducted 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, and for NASA only, Historically Black Colleges and Universities and Minority Institutions.

(B) The reports shall include in and make a part of the resultant contracts.

(3) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan.

(4) 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-

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

(B) Veteran-owned small business concerns;

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

(D) HUBZone small business concerns;

(E) Small disadvantaged business concerns (including ANC and Indian tribes); and

(F) Women-owned small business concerns.

23. REPORTING AND RECORD-KEEPING REQUIREMENTS

(a) The offeror shall submit the following reports:

(1) A report of subcontract awards made within 60 days after the end of each quarter, which shall include-

(A) The total dollars planned to be subcontracted for an individual contract plan, or the offeror’s total projected sales, expressed in dollars, and the total value of business conducted with each subcontractor.

(B) The total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(C) The total dollars planned to be subcontracted to veteran-owned small business concerns;

(D) The total dollars planned to be subcontracted to service-disabled veteran-owned small business concerns;

(E) The total dollars planned to be subcontracted to HUBZone small business concerns;

(F) The total dollars planned to be subcontracted to small disadvantaged business concerns;

(G) The total dollars planned to be subcontracted to women-owned small business concerns;

(2) A statement under clause 21(e) that the offeror has complied with this clause, or as provided in agency regulations;

(b) The reports shall include in and make a part of the resultant contracts.

24. SMALL BUSINESS SUBCONTRACTING COMPLIANCE REPORTS

(a) The reports shall be submitted at the time of contract award, and quarterly thereafter.

(b) The reports shall include in and make a part of the resultant contracts.

(c) The reports shall include in and make a part of the resultant contracts.

(d) The reports shall include in and make a part of the resultant contracts.

25. SMALL BUSINESS SUBCONTRACTING COMPLIANCE REPORTS

(a) The reports shall be submitted at the time of contract award, and quarterly thereafter.

(b) The reports shall include in and make a part of the resultant contracts.

(c) The reports shall include in and make a part of the resultant contracts.

(d) The reports shall include in and make a part of the resultant contracts.

(e) The reports shall include in and make a part of the resultant contracts.

(f) The reports shall include in and make a part of the resultant contracts.

(g) The reports shall include in and make a part of the resultant contracts.

(h) The reports shall include in and make a part of the resultant contracts.

(i) The reports shall include in and make a part of the resultant contracts.

(j) The reports shall include in and make a part of the resultant contracts.

(k) The reports shall include in and make a part of the resultant contracts.

(l) The reports shall include in and make a part of the resultant contracts.

(m) The reports shall include in and make a part of the resultant contracts.

(n) The reports shall include in and make a part of the resultant contracts.

(o) The reports shall include in and make a part of the resultant contracts.

(p) The reports shall include in and make a part of the resultant contracts.
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 are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potential 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 with subcontractors having 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 a 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 business, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that the small business concern was not actually small in size.

(6) For all competitions involving small business concerns, the contractor shall make good faith efforts to use subcontracting plans specified in FAR 52.215-1. The contractor shall be responsible for the submission of plans required by FAR 52.215-1 (c).

(7) The offeror ensures that the master plan is updated as necessary and provides goals and any deviations from the master plan deemed necessary by the offeror to the Contractor. The offeror can provide this information either by issuing a new master plan or by amending the existing plan.

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 offeror agrees that the submission of this paragraph (a), in any subcontract to which a labor dispute may delay the timely performance of this contract, except that each subcontract that 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 highest 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 requested, in such form and number as may be required by the Laboratory, summarizing activities related to the work performed under this contract.

23. SUBCONTRACTOR COST OR PRICING DATA (OCT 2010)

(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later, in response to solicitation involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit its offer of pricing data in accordance with FAR 15.403-1. (b) After the date of award, the contractor shall require the subcontractor to submit its offer of pricing data in accordance with FAR 15.403-1. (c) Upon receipt of the contractor’s offer of pricing data, the Contractor shall require the subcontractor to submit its offer of pricing data for each subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit its offer of pricing data in accordance with FAR 15.403-1. (d) The Contractor shall require the subcontractor to certify in substantially the form prescribed by FAR 52.215-11, paragraph (a)(1)(ii) that the pricing data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

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 each subcontractor in accordance with the terms of this clause. To the maximum extent practicable and prior to when such payment is otherwise required under this contract or the Prompt Payment Act, the Contractor will give notice, including all relevant information, to the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

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

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

(i) apply to any subcontract expected to exceed the threshold for submission of certified cost or pricing data in accordance with FAR 15.403-4; and

(ii) be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data in accordance with FAR 15.403-4, the Contractor shall require the subcontractor to submit its pricing data in accordance with FAR 15.403-1. (c) The Contractor shall require the subcontractor to certify in substantially the form prescribed by FAR 52.215-11, paragraph (a)(1)(ii) that the pricing data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

26. 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—
(d) If 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 (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(c) 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 as a defense:

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

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data.

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

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

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

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

(B) The Contractor proves that the cost or pricing data were available because of cost overruns or delayed costs specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such overruns or delays occurred.

(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;

(B) the Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If 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 (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

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

(1) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor the amount of the overpayment, if the Contractor or subcontractor fails to repay the amount determined appropriate by the Contracting Officer based upon the facts in accordance with the provisions in FAR subpart 31.2; and

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

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

This clause is applicable to all cost-reimbursement subcontracts that exceed the simplified acquisition threshold ($100,000).

(4) Description of services to be performed.

(5) Place of performance.

(6) Method of shipment or packing.

(7) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Laboratory in accordance with the drawings, designs, or specifications.

(8) Method of packing or shipping.

(9) Place of delivery.

(10) Description of services to be performed.

(11) If any change made by this clause would result in a decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not the work is performed in accordance with the clauses of the simplified acquisition threshold, except if the contract is with DoH, then insert in all cost-reimbursement subcontracts under this contract that exceed the simplified acquisition threshold, except those identified in 15.408(2)(i)(B), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.

29. CHANGES—COST-REIMBURSEMENT (OCT 1999)

(4) Description of services to be performed.

(5) If any change made by this clause would result in an increase in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not the work is performed in accordance with the clauses of the simplified acquisition threshold, except if the contract is with DoH, then insert in all cost-reimbursement subcontracts under this contract that exceed the simplified acquisition threshold, except those identified in 15.408(2)(i)(B), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.

(6) Description of services to be performed.

(7) The Laboratory may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in any one or more of the following:

(a) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the Laboratory in accordance with the drawings, designs, or specifications.

(b) Method of packing or shipping.

(c) Place of delivery.

(d) Method of payment.

(e) Place of performance.

(f) Place of delivery.

(g) Description of services to be performed.

(h) Description of services to be performed.

(i) If any change made by this clause would result in an increase in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not the work is performed in accordance with the clauses of the simplified acquisition threshold, except if the contract is with DoH, then insert in all cost-reimbursement subcontracts under this contract that exceed the simplified acquisition threshold, except those identified in 15.408(2)(i)(B), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.

(i) Description of services to be performed.

(j) Description of services to be performed.

(k) If any change made by this clause would result in an increase in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not the work is performed in accordance with the clauses of the simplified acquisition threshold, except if the contract is with DoH, then insert in all cost-reimbursement subcontracts under this contract that exceed the simplified acquisition threshold, except those identified in 15.408(2)(i)(B), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.

(l) Description of services to be performed.

(m) Description of services to be performed.
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 these causes are (1) acts of God or of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, (9) unusually severe weather, or (10) 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 endanger performance.

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

(1) The subcontracted supplies or services were obtained from other sources;
(2) The subcontractor failed to reasonably cooperate with the contractor;
(3) The contractor failed to comply reasonably with this order.

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

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

(a) Definitions. As used in this clause—

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

(i) All or substantially all of the Contractor’s business;
(ii) All or substantially all of the Contractor’s operations at a plant or separate location where the contract is being performed;
(iii) A separate and complete major industrial operation connected with performing this contract.

(b) 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 Laboratory covering the supplies, fabricating methods, and special tooling under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Laboratory during contract performance and for as long afterwards as the contract requires.

(d) The Contractor has the 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 Laboratory may also inspect plant or plants of the Contractor or any subcontractor engaged in the contract performance. The Laboratory shall perform inspections and tests in a manner that will not unduly delay the work.

(e) If the supplies are not inspected or tested 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 Laboratory shall accept supplies as promptly as made available after delivery, and supplies shall be accepted 60 days after delivery, unless accepted 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 Laboratory may require the Contractor to replace or correct any supplies that are not accepted at time of delivery. The public enemy, (2) acts of the Contractor in material or workmanship or are otherwise not in conformity with contract requirements. Except as otherwise provided in paragraph (g)(2) of this clause, the cost of replacement or correction shall be included in allowable cost, determined as provided in the Allowable Cost and Payment clause, but no additional fee shall be paid. The Contractor shall not tender for acceptance supplies required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the correction action taken.

(h) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, the Laboratory may—

(1) By contract or otherwise, require the replacement or correction and charge to the Contractor any increased cost or make an equitable reduction in any fixed fee paid or payable under the contract;
(2) Require delivery of undelivered supplies at an equitable reduction in any fixed fee paid or payable under the contract; or
(3) Terminate the contract.

(i) Failure to agree on the amount of increased cost to be charged to the Contractor or an equitable reduction in the fixed fee shall be a dispute.

(j) Notwithstanding paragraphs (f) and (g) of this clause, the Laboratory may at any time require the Contractor to correct or replace, without cost to the Laboratory, nonconforming supplies or services for performance of the Government-furnished property.

32. PERMITS OR LICENSES (OCT 1999)

(a) Except as otherwise directed by the Laboratory, the contractor shall procure all necessary permits or licenses as are required and as are allowable 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—

(1) “Awards of the type described in FAR 52.217-7” means an award where the Government has determined that a fixed-price contract is an appropriate means of accomplishing the contract task or subtask, and that a fixed-price contract is reasonably practicable at that time, where the contract involves the research and development of new technology.

(b) “Awards of the type described in FAR 52.217-7” shall include any fixed-price subcontract entered into in connection with a subcontractor who is in the business of research and development.

(c) “Awards of the type described in FAR 52.217-7” shall include any fixed-price subcontract entered into in connection with a subcontractor who is in the business of research and development.

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 Laboratory. The Laboratory may assign any part of this contract to its successor or its designee. The Laboratory may assign this contract to a successor operator of the Laboratory.

35. SUBCONTRACTS FOR COMMERCIAL ITEMS (FEB 2015)

(a) Definitions. As used in this clause—

(1) “Commercial item” means any property described in Federal Acquisition Regulation 2.101.

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

(c) 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.

(d) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-11, Contractor Code of Business Ethics and Conduct (Apr 2010) [61 FR 44912]; if the subcontract exceeds $500,000 and has a performance period of more than 120 days, in altering this clause to identify the appropriate provision of the code, or if the subcontract is funded under the Recovery Act or the Christian Science Publishing Society Act or if the subcontract is funded under the Recovery Act.

(ii) 52.219-9, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jan 2010) (Section 1553 of Public L. 111-5), if the subcontract exceeds $500,000 ($1.5 million for construction of any public facility) and is not exempt from the subcontractor.

(iii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637d-1), if the subcontract exceeds $500,000 ($1.5 million for construction of any public facility) and is not exempt from the subcontractor.

(iv) 52.219-9, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637d-1), if the subcontract is funded under the Recovery Act.

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

(a) Definitions. As used in this clause—

(1) “Awards of the type described in FAR 52.217-7” means an award where the Government has determined that a fixed-price contract is an appropriate means of accomplishing the contract task or subtask, and that a fixed-price contract is reasonably practicable at that time, where the contract involves the research and development of new technology.

(b) “Awards of the type described in FAR 52.217-7” shall include any fixed-price subcontract entered into in connection with a subcontractor who is in the business of research and development.

(c) “Awards of the type described in FAR 52.217-7” shall include any fixed-price subcontract entered into in connection with a subcontractor who is in the business of research and development.

37. SUBCONTRACTS (OCT 2010)

(a) Definitions. As used in this clause—

(1) “Awards of the type described in FAR 52.217-7” means an award where the Government has determined that a fixed-price contract is an appropriate means of accomplishing the contract task or subtask, and that a fixed-price contract is reasonably practicable at that time, where the contract involves the research and development of new technology.

(b) “Awards of the type described in FAR 52.217-7” shall include any fixed-price subcontract entered into in connection with a subcontractor who is in the business of research and development.

(c) “Awards of the type described in FAR 52.217-7” shall include any fixed-price subcontract entered into in connection with a subcontractor who is in the business of research and development.

38. 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 Laboratory. The Laboratory may assign any part of this contract to its successor or its designee. The Laboratory may assign this contract to a successor operator of the Laboratory.

39. SUBCONTRACTS FOR COMMERCIAL ITEMS (FEB 2015)

(a) Definitions. As used in this clause—

(1) “Commercial item” means any property described in Federal Acquisition Regulation 2.101.

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

(c) 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.

(d) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-11, Contractor Code of Business Ethics and Conduct (Apr 2010) [61 FR 44912]; if the subcontract exceeds $500,000 and has a performance period of more than 120 days, in altering this clause to identify the appropriate provision of the code, or if the subcontract is funded under the Recovery Act or the Christian Science Publishing Society Act or if the subcontract is funded under the Recovery Act.

(ii) 52.219-9, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jan 2010) (Section 1553 of Public L. 111-5), if the subcontract exceeds $500,000 ($1.5 million for construction of any public facility) and is not exempt from the subcontractor.

(iii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637d-1), if the subcontract exceeds $500,000 ($1.5 million for construction of any public facility) and is not exempt from the subcontractor.

(iv) 52.219-9, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 637d-1), if the subcontract is funded under the Recovery Act.
(36. PROPERTY [JAN 2013])

(a) Failing 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 furnished by the Contractor, for the cost of which the Contractor is entitled to reimbursement hereunder, shall pass directly from the Government to the Contractor as the fair value thereof. The amount received by the Contractor as the result of any disposition, or the agreed fair value of any such property acquired by the Contractor, shall be reimbursable to the Contractor under this contract, shall pass to and vest in the Contractor as the fair value thereof, and shall be credited to the contract in accordance with paragraph (g) of FAR clause 52.247-14. While not required, the Contractor may flow down to subcontracts for commercial property a minimal number of clauses referenced as necessary to satisfy the subcontractor obligations.

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

37. KEY PERSONNEL (DEC 2000)

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

(b) In addition, the Contractor shall ensure that adequate safeguards are in place, and adhere to, for the handling, control and disposition of high-risk property and classified materials throughout the life cycle of such property and materials consistent with the policies, practices and procedures for property management contained in the Federal Property Management Regulations (41 CFR Part 101), the Department of Energy (Defense Nuclear Facilities Complex Management Standards statute including FAR clause 52.212-2), and the Laboratory Procurement Official and the Contractor shall approve, sell, or exchange such property, or acquire such property at a price agreed upon by the Laboratory Procurement Official and the Contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as "Government property." Title to Government property shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government property or any part thereof, be or become a part of any property owned by the Contractor, nor shall such property be or become part of any contract, lineal or diagonal, or construction, alteration, or repair operation in connection with the performance of this contract; or

(c) Identification. The Contractor shall make such disposition of property which has come into the possession or custody of the Contractor under this contract as the Laboratory Procurement Official may direct during the progress of the work or upon completion or termination of this contract. The Contractor may, upon such terms and conditions as the Laboratory Procurement Official may approve, sell, or exchange such property, or acquire such property at a price agreed upon by the Laboratory Procurement Official and the Contractor, title to which vests in the Government, under this paragraph are hereinafter referred to as "Government property." Title to Government property shall not be affected by the incorporation of the property into or the attachment of it to any property not owned by the Government, nor shall such Government property or any part thereof, be or become a part of any property owned by the Contractor, nor shall such property be or become part of any contract, lineal or diagonal, or construction, alteration, or repair operation in connection with the performance of this contract; or

(d) Risk of loss of Government property.

(i) The Contractor shall not be liable for the loss or destruction of, or damage to, Government property, provided such loss was caused 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 comply with an appropriate written 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) of this clause.

(ii) If, after an initial review of the facts, the Laboratory Procurement Official determines that there is no reasonable cause to believe that the loss, destruction, or damage to government property results from conduct falling within one of the categories set forth above, the burden of proof shall be upon the Contractor to establish to the satisfaction of the Contracting Officer that the Contractor shall not be required to compensate the government for the loss, destruction, or damage.

38. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION (MAY 2014)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.230) shall require or permit them to work over 40 hours in any workweek unless they are paid at least 1 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) Violation. For unpaid wages; liquidated damages. The responsible Contractor and subcontractor are jointly and severally liable for the following terms of this paragraph and the laborers employed by the Contractor shall become liable for the following terms of this paragraph a) of the clause.

(i) If the Contractor does not pay the laborers the overtime compensation required by the Contract Work Hours and Safety Standards statute (found at 40 U.S.C. Chapter 37).

(ii) Withholding for unpaid wages and liquidated damages. The Contractor and subcontractor liabilities for unpaid wages and liquidated damages. If amounts withheld under the contract are insufficient to satisfy such obligations, the Laborers and subcontractor liabilities, the Contractor will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards statute.
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 classification, hourly rate of wages paid, and weekly and yearly hours of 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 allow authorized representatives of the Contracting Officer or the Department of Labor to inspect, copy, or transcribe records maintained under paragraphs (a)(1) or (b)(1) of this clause. The Contractor or subcontractor shall also allow authorized representatives of the Contracting Officer or Department of Labor to interview employees in the workplace during working hours.

(c) Subcontracts. The Contractor shall insert 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 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 prices for items of supplies shall distribute costs with contracts on a basis that the unit prices are in proportion to the items’ base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to items that distorts unit price or which reduces, increasing or reduces specific services, as partial or complete performance of the contract.

(b) Reconsider the inspection and acceptance process of 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 of 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 of the Laboratory. This notice shall state either:

(1) That the Contractor shall correct or reperform any defective or nonconforming services, or

(2) That the Contractor 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 provided services with such designation used, available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for EnergyStar at: http://www.energystar.gov/products and at:

http://www.eere.energy.gov/pem/reports/research
data

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

When the contract requires the specification or delivery of telecommunications, the clause at FAR 52.223-14, Acquisition of EPEAT®-Registered Personal Computers (Jun ‘14) 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 (OCT 2015) shall apply.

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13424, Strengthening Federal Environmental Regulations by the Federal Leadership for Environmental Excellence and Performance. This guide includes information concerning recycled content products, bio-based products, energy efficient products, efficient products for vehicles and fuels and vehicles, and products and services. This guide is available on the Internet at:


42. BUY AMERICAN ACT – SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause—

“Commodity is usually 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 to contract for at any tier, without modification, in the same form in which it is sold in the commercial marketplace.

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

“Component” means an article, material, or supply directly incorporated into the end product. “Cost of components” means—

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

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1). This includes labor, materials, and overhead which are reduced by any profit (except that the cost of components does not include any costs associated with the manufacture of the end product.

“Domestic end products” means—

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

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

(3) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin are determined by such factors as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available quantities and in a timely manner in the United States. Components that are imported or not otherwise available are considered imported.

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

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

(iii) The Laboratory will, at a later date, receive funds sufficient to meet deficiencies.

(b) Except as otherwise provided, in writing, by the Laboratory Procurement Official, the Contractor agrees to insert the following provision in noncommercial Purchase Orders and subcontracts in this contract:

(1) For the purpose of determining the price of professional services, if this contract is for the manufacture or furnishing of materials, supplies, or equipment, that the contractor is required to provide in an amount which exceeds or may exceed $15,000.00 and is otherwise subject to the Walsh-Healy Public Contracts Act, as amended, or applicable state or local laws, or, by any reference to any representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and regulations of the Secretary of Labor which are now or may hereafter be in effect.
(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 acquired under any contract for an allowable item of cost. In the event the contractor reasonably believes, or the Laborator}
(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold from sums owed to a subcontractor under the prime contract the amount of the kickback. The Contracting Officer may order that monies withheld under subdivision (c)(2) or (c)(3) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(1) or (c)(3) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5), but not by way of paragraph (c)(1), in all subcontracts under this contract which exceed $150,000.

48. RESTRICTIONS ON SUBCONTRACTORS SALES TO THE GOVERNMENT (SEP 2006)

Applicable to Contracts Which Exceed $100,000

(a) Notwithstanding the provisions of the clause entitled “Allowable Cost and Payment,” the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to taxes agreed upon in the contract, as specified below.

(b) 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 Laboratory, with a copy to the cognizant audit office, a report containing the overhead rates by the contractor for the fiscal year, or such other period as may be specified in the contract, shall be used by the contractor in the computation of the allowable indirect costs under this contract.

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

49. NEGOTIATED OVERHEAD RATES (AUG 2001)

Notwithstanding the provisions of the clause entitled “Allowable Cost and Payment,” the allowable indirect costs under this contract shall be obtained by applying negotiated overhead rates to taxes agreed upon in the contract, as specified below.

(a) 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 programs) made of or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The Contractor shall not enter into any agreement with the private sector. Any such activity should be set forth in a modification to this contract.

(c) The rates specified by the contractor in the contract shall be in accordance with the requirements of this clause and are permitted by other Federal law.

(d) The Contractor shall not enter into any agreement restricting sales by subcontractors to the private sector. Any such activity should be set forth in a modification to this contract.

(e) The Contractor shall report to the Contracting Officer when the Contractor has sufficient reasons to believe that any subcontractor has entered into any agreement restricting sales by subcontractors to the private sector. Any such activity should be set forth in a modification to this contract.

50. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2018)

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

(a) Definitions. As used in this clause—

(1) “Agency” means “executive agency” as defined in Federal Acquisition Regulation (FAR) 2.101.

(2) “Covered Federal action” means any of the following actions:

(a) Granting any Federal contract.
(b) Making any Federal loan.
(c) Entering into any cooperative agreement.
(d) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.
(e) “Indian tribe” and “tribal organization” have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaska Native Natives.
(f) “Influencing or attempting to influence” means making, with the intent to influence, any communication or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
(g) “Local government” means a unit of government in a State and, if chartered, established, or otherwise recognized by the State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a regional group representative organization, and any other instrumentality of a local government.
(h) “Officer or employee of an agency” includes the following individuals who are employed by an agency:

(i) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
(ii) A member of the uniformed services as defined in section 101 of Title 37, United States Code.
(iii) A special Government employee, as defined in section 202, Title 18, United States Code.
(iv) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

(2) “Person” means an individual, corporation, company, association, firm, partnership, society, State, and local government, regardless of whether such entity is organized for profit or not for profit. This term includes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

(3) “Reasonable compensation” means, with respect to a regularly employed officer or employee of any person, compensation not in excess of the normal compensation paid by such person for like services rendered by such officer or employee for work that is not furnished to, not funded by, or not furnished in connection with the Government’s business.

(4) “Reasonable payment” means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in like circumstances.

(5) “Recipient” includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

(6) “Regularly employed” means, with respect to an officer or employee of a person requesting or receiving a Federal action, a Federal officer or employee who is employed by such person for at least 130 working days in 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days in 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

(7) “State” means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or department of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition. 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds or influencing, or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action. In accordance with 31 U.S.C. 1352 the Contractor shall not use appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contract the extension, continuation, renewal, amendment, or modification of this contract.

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

(1) Agency and legislative liaison by Contractor employees.

(a) Payment may be made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information or services pursuant to an agency or Congress is permitted at any time.

(b) Providing information or services pursuant to an agency or Congress is permitted at any time.

(2) Professional and technical services.

(a) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or agency and legislative liaison for professional and technical services rendered directly in connection with the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition of receiving a covered Federal action, or for meeting requirements imposed by or pursuant to law as a condition of receiving a covered Federal action, is permitted.

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

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

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

(d) Disclosures.

(1) If the Contractor did not submit OMB Standard Form F-LLL, Disclosure of Lobbying Activities, with a copy to the cognizant audit office, the Contractor shall submit OMB Standard Form F-LLL, Disclosure of Lobbying Activities, with a copy to the cognizant audit office, to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form F-LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.201-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form F-LLL (name and address of lobbying registrants or individuals performing services), the Contractor shall, at the beginning of the calendar quarter which includes the change, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form F-LLL.

(3) Requirements imposed by or pursuant to law as a condition of receiving a covered Federal action include requirements that are law or regulation and any other requirements in the act or its implementing regulations.

(e) Penalties.

(1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to the provisions of 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be available.

(2) Contractors may rely without liability on the representation made by their subcontractors that the subcontractor’s certifications and disclosures are accurate.

(3) Costs shall be allowable only to the extent that any costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(4) The Contractor shall submit a copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted, submit a copy of each subcontractor disclosure form (but not certifications) to the Contracting Officer within 30 days of the end of the calendar quarter in which the disclosure form was submitted.

(5) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.
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) this is a cost-sharing contract, the Laboratory's share of the estimated cost specified in the Schedule. The contractor agrees to use every effort to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, whether this is a cost-sharing contract, including both direct and indirect cost.

(b) The Schedule specifies the amounts presently available for payment by the Laboratory and allocated to this contract, the items covered, the Laboratory's share of the cost if it is a cost-sharing contract, and the period over which the funds are to be expended. Payments may be made only in accordance with the terms of this Schedule.

(c) The contractor shall notify the authorized Laboratory Procurement Official in writing whenever it is necessary to discontinue work, or to change the cost estimate, and all obligations under this contract within the estimated cost, whether this is a cost-sharing contract, including both direct and indirect cost.

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 fifteen (15) days, and not later than the later of (i) the due date for contract financing payments, or (ii) ten (10) days after receipt of the Contractor's proposal referring designating performance of services or furnishing of materials at the time of the proposal shall not be considered an authorization to exceed the estimated cost to the Laboratory specified in the Schedule, whether these costs were incurred during the course of the contract or as a result of termination.

(2) If the estimated cost specified in the Schedule is increased, any costs the contractor incurs before the increase that are in excess of the previously estimated cost shall be allowable to the Contractor if it is a cost-sharing contract, or to the Laboratory if this is a cost-sharing contract, subject to the following conditions:

(i) The Contractor shall submit an adequate cost reimbursement proposal to the authorized Laboratory Procurement Official in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 as supplemented by subpart 31.2.2 of the Department of Energy Acquisition Regulations (DEAR) when the increase is charged to a cost-sharing contract. The Contractor may submit an adequate cost reimbursement proposal to the authorized Laboratory Procurement Official in accordance with FAR Subpart 31.2 as supplemented by subpart 31.2.2 of the Department of Energy Acquisition Regulations (DEAR) when the increase is charged to a cost-sharing contract. The Contractor may submit an adequate cost reimbursement proposal to the authorized Laboratory Procurement Official in accordance with FAR Subpart 31.2 as supplemented by subpart 31.2.2 of the Department of Energy Acquisition Regulations (DEAR) when the increase is charged to a cost-sharing contract.

(j) 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.

(k) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate the fair value of the property produced or purchased under the contract, based upon the share of costs incurred by each.

52. LIMITATION OF COST (APR 1984)

(a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the Laboratory more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Laboratory's share of the estimated cost specified in the Schedule. The contractor agrees to use every effort to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, whether this is a cost-sharing contract, including both direct and indirect cost.

(b) The Schedule specifies the amounts presently available for payment by the Laboratory and allocated to this contract, the items covered, the Laboratory's share of the cost if it is a cost-sharing contract, and the period over which the funds are to be expended. Payments may be made only in accordance with the terms of this Schedule.

(c) The contractor shall notify the authorized Laboratory Procurement Official in writing whenever it is necessary to discontinue work, or to change the cost estimate, and all obligations under this contract within the estimated cost, whether this is a cost-sharing contract, including both direct and indirect cost.

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

(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 the fair value of the property produced or purchased under the contract, based upon the share of costs incurred by each.

(g) Reimbursable costs.

(1) For the purpose of reimbursing allowable costs (exclusive of any fee), the Laboratory will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more than once every fifteen (15) days, and not later than the later of (i) the due date for contract financing payments, or (ii) ten (10) days after receipt of the Contractor's proposal referring designating performance of services or furnishing of materials at the time of the proposal shall not be considered an authorization to exceed the estimated cost to the Laboratory specified in the Schedule, whether these costs were incurred during the course of the contract or as a result of termination.

(h) 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.

(i) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate the fair value of the property produced or purchased under the contract, based upon the share of costs incurred by each.

(j) 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.

(k) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate the fair value of the property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) Reimbursable costs.

(1) For the purpose of reimbursing allowable costs (exclusive of any fee), the Laboratory will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more than once every fifteen (15) days, and not later than the later of (i) the due date for contract financing payments, or (ii) ten (10) days after receipt of the Contractor's proposal referring designating performance of services or furnishing of materials at the time of the proposal shall not be considered an authorization to exceed the estimated cost to the Laboratory specified in the Schedule, whether these costs were incurred during the course of the contract or as a result of termination.

(m) 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.

(n) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate the fair value of the property produced or purchased under the contract, based upon the share of costs incurred by each.

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 fifteen (15) days, and not later than the later of (i) the due date for contract financing payments, or (ii) ten (10) days after receipt of the Contractor's proposal referring designating performance of services or furnishing of materials at the time of the proposal shall not be considered an authorization to exceed the estimated cost to the Laboratory specified in the Schedule, whether these costs were incurred during the course of the contract or as a result of termination.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate II to the clause at 52.232-10, Payment By Disbursement Order.

(3) The designated payment office will make interim payments for contract financing on the 30th day after the designated billing office receives a proper payment request, in the event that the Laboratory requires an audit or other review of a specific payment request to ensure that the payment is allowable.

(b) Accounting records.

(1) The Contractor shall submit an adequate final indirect cost rate proposal to the authorized Laboratory Procurement Official in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 as supplemented by subpart 31.2.2 of the Department of Energy Acquisition Regulations (DEAR) when the increase is charged to a cost-sharing contract. The Contractor may submit an adequate cost reimbursement proposal to the authorized Laboratory Procurement Official in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 as supplemented by subpart 31.2.2 of the Department of Energy Acquisition Regulations (DEAR) when the increase is charged to a cost-sharing contract.

(2) The Contractor's practice is to make contributions to the retirement fund at an amount that will be equal to or greater than had been previously estimated.

(3) The designated payment office will make interim payments for contract financing on the 30th day after the designated billing office receives a proper payment request, in the event that the Laboratory requires an audit or other review of a specific payment request to ensure that the payment is allowable.

52. LIMITATION OF COST (APR 1984)

(a) The parties estimate that performance of this contract, exclusive of any fee, will not cost the Laboratory more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Laboratory's share of the estimated cost specified in the Schedule. The contractor agrees to use every effort to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, whether this is a cost-sharing contract, including both direct and indirect cost.

(b) The Schedule specifies the amounts presently available for payment by the Laboratory and allocated to this contract, the items covered, the Laboratory's share of the cost if it is a cost-sharing contract, and the period over which the funds are to be expended. Payments may be made only in accordance with the terms of this Schedule.

(c) The contractor shall notify the authorized Laboratory Procurement Official in writing whenever it is necessary to discontinue work, or to change the cost estimate, and all obligations under this contract within the estimated cost, whether this is a cost-sharing contract, including both direct and indirect cost.

(d) 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.

(e) If this contract is terminated or the estimated cost is not increased, the Laboratory and the contractor shall negotiate the fair value of the 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 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 at the time specified in paragraph (d)(5) of this clause.

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

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

(5) Recurrence of all subcontracts per IRS Form 941 to total labor distribution.

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

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

(8) Contract closing information for contracts physically completed in this fiscal year that contain a record of performance period of performance, contract ceiling amounts, contract fee computations, level of effort, and indicate if the contract is ready to close.

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

(A) Comptroller's analysis of indirect expense pools detailed by account to prior fiscal year and budgetary data.

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

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

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

(E) Description and accounting system (excludes contractors required to submit a CAS Disclosure Statement or contract where the description of the accounting system has not changed from the previous year's submission).

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

(G) Certified final indirect costs, reflected in 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/or 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 following the final indirect cost rate submission is made.

(L) Federal and State income tax returns.

(M) Securities and Exchange Commission 10-K annual report.

(N) Minutes from board of directors meetings.

(O) Listing of delay claims and termination claims submitted which contain cost information.

(P) Description of organizational changes.

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

(vi) The Contractor shall update the billings 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 (d)(1)(i) of this section, within 60 days after settlement of final indirect cost rates.

(3) The Contractor 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 bases to which the rates apply, (iii) the 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 in which the agreement applies, along with any advance agreements or settlement 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 understanding is incorporated into this contract upon execution.

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

(vii) Within 120 days (or longer period if approved in writing by the Laboratory Procurement Officer after settlement of the final annual indirect cost rates for any contract) a physically complete contract, the contractor shall submit a complete invoice or voucher to reflect the settled amounts and rates. The completion invoice or voucher shall include settlement submittal amounts and rates. The prime contractor is responsible for setting subcontractor amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the Laboratory Procurement Official within 30 days of receipt of the final invoice.

(i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(3) 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.

(ii) This determination constitutes the final decision of the Laboratory Procurement Official.

(b) 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 Officer or by an authorized official, addressed in this clause (a), subject to adjustment when the final rates are established. These billing rates—

(1) Shall be the anticipated indirect costs for the period, as adjusted for changes in the number of personnel, labor rates, prices, accounting/organizational changes, and other changes in the basis for the current and previous indirect cost rates.

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(3) During the initial application for audit and performance periods for which the indirect cost rates are not in effect, the Contractor shall determine indirect costs in accordance with FAR 42.704(a), as supplemented by Laboratory procedures are satisfied.

(c) Audit. At any time or times before final payment, the Laboratory Procurement Official may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be—

(1) Reduced by amounts found by the Laboratory Procurement Official not to constitute allowable costs; or

(2) Deferred for prior overpayments or underpayments.

(d) Final payment.

(1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (a) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.
58. WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

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

59. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO REPORT INCIDENTS IN VIOLATION OF WHISTLEBLOWER RIGHTS (APR 2014)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and for Fiscal Year 2014 (Pub. L. 113-235).

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as required by section 9309 of the Federal Acquisition Regulation.

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

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

(a) Definition. "Commercially available off-the-shelf (COTS) item" means, as used in this clause-

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

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

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

(b) The Government suspends or debars Contractors to protect the Government’s interests. Offer a subcontract for a commercial item for which a commercial item supplier offers a genuine offer of, or the potential to offer, a competitively priced alternative where the Contractor does not enter into an subcontract, in excess of $35,000 with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed $35,000, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 4.107 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

(1) The name of the subcontractor;

(2) The Contractor’s knowledge of the reasons for the subcontractor being listed with an exclusion in SAM; and

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

(e) Systems and procedures the Contractor has established to ensure that it is fully complying with the Government’s interests in connection with such subcontracts shall be of the specific basis for the party’s debarment, suspension, or proposed debarment.

(f) Subcontracts. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (f), (appropriately modified for the identification of the parties), in each subcontract that—

(1) Exceeds $35,000 in value; and

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

61. COMBATING TRAFFICKING IN PERSONS (MARCH 2015)

(a) Definitions. As used in this clause—

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

(2) "Commercial sex act" means any sex act on account of which any amount of value is given to or received by any person. "Debt bondage" means the status or condition of a debtor arising from the pledge of the debtor or his or her personal services or of those under a person or his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

(b) Policy. The United States Government has a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not-

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

(2) Procure commercial sex acts during the period of performance of the contract

(3) Use forced labor in the performance of the contract

(4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the identity or immigration documents of an employee

(5) Use military and other security measures during the recruitment of employees or offering of employment, such as keeping files of employment information available to the employee, unless the files are for the purpose of viewing the employee rights and remedies in the pilot program on Contractor employee whistleblower protections

(c) Contractor requirements. The Contractor shall—

(1) Notify its employees and agents of—

(1) The United States Government’s policy prohibiting trafficking in persons, as described in paragraph (b) of this clause for information on the System for Award Management (SAM); and

(2) The actions that will be taken against employees or agents for violations of this policy, and the actions that the Contractor believes are not applicable to the employee or agent, are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(3) Take appropriate steps to reduce the chance that human trafficking occurs in the course of this contract.

(2) Provide or arrange housing that meets the host country housing and safety standards;

(3) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall specifically state that the employee must relinquish any right to perform the work, the work shall be performed by the employee at least five days prior to the contract signing. The employee’s work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(d) Notification. The Contractor shall—

(1) Notify the Contracting Officer and the agency Inspector General immediately—

(1) Any condition that information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor’s employee, or an employee in a subcontractor’s workforce that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 22 U.S.C. 2150b(h)); and

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

(2) If the allegations are not associated with more than one contractor, the Contractor shall inform the contracting officer for the contract with the highest dollar value.
(e) Remedies. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (j) of this clause may result in:

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of any portion of the work.

(2) Requiring the Contractor to terminate a subcontract.

(3) Suspension of contract payments until the Contractor has taken appropriate remedial actions.

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance.

(5) Declining to exercise available options under the contract.

(6) Termination of the contract for default or cause, in accordance with the termination clauses of this contract.

(7) Suspension or debarment.

(f) Mitigating and aggravating factors. When determining remedies, the Contracting Officer may consider the following:

(1) Mitigating factors. The Contractor had a Trafficking in Persons compliance plan or an awareness program in place at the time of the violation, with the plan having taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.

(2) Aggravating factors. The Contractor failed to abide an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.

(g) Full cooperation.

(1) The Contractor shall, at a minimum-

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

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

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims' Protection Act of 2000 (22 U.S.C. chapter 70, E.O. 13237, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

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

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not:

(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney-client privilege or Fifth Amendment rights;

(iii) Restrict the Contractor from-

(A) Conducting an internal investigation; or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) Compliance plan.

(I) This paragraph (h) applies to any portion of the contract that-

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

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

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

(i) To the nature and scope of the activities to be performed for the Government, including the number and types of Contractors and subcontracts, and the persons or entities that will be involved in the performance of the work; and

(ii) To the risk that the contract or subcontract will involve services or supplies that may be susceptible to trafficking in persons.

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

(i) An awareness program to inform employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the violations prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at http://www.state.gov/j/tip/

(ii) A process for employees to report reasonable fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline (toll-free 1-888-37-TIP-4U and its email address help@befree.org).

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explicitly state wages.

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

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

(i) Posting.

(1) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or at a fixed location) and on the Contractor's Web site (if it is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.

(2) The Contractor shall provide the compliance plan to the Contracting Officer upon request.

(f) Certification. Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that-

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

(2) After having conducted due diligence, either-

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.

(2) Subcontracts.

(1) The Contractor shall include the substance of this clause, including this paragraph (h), in all subcontracts and in all contracts awarded with agents.

62. RESEARCH MISCONDUCT (JUL 2005)

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

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

(1) Conduct an investigation to develop a complete factual record and an examination of a complete record leading to an identification and an identification of appropriate remedies or a determination that no further action is warranted.

(2) The investigation is concluded, conduct an adjudication by a representative official who was not involved in the inquiry or investigation and is separated organizationally from the element which conducted the investigation. The decision of the investigator is to be reviewed and, as appropriate, determined by any corrective action taken or planned, and the subject's written response (if any).

(c) The Laboratory may elect to act in lieu of the contractor in conducting an inquiry or investigation in the event of research misconduct or for another reason.

(1) The research organization is not prepared to handle the allegation in a manner consistent with this clause;

(2) The allegation involves an entity of sufficiently small size that it cannot reasonably conduct the inquiry;

(3) Laboratory involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the public interest; or,

(4) The laboratory involvement may cause the potential criminal misconduct.

(d) In conducting the activities under paragraphs (b) and (c) of this clause, the contractor and the Laboratory, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:

(1) Safeguards for information and subjects of allegations. The contractor shall provide safeguards to ensure that individuals may bring allegations of research misconduct without fear of discrimination or retaliation.

(2) Objective and Impartiality. The contractor shall select individual(s) to inquire, investigate, and adjudicate allegations of research misconduct who have appropriate expertise and who have no conflict of interest.

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

(4) Remediation and Sanction. If the contractor finds that research misconduct has occurred, it shall assess 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 the research in question or research in the future. The contractor must coordinate remedial actions with the LPO. The contractor must also consider whether personnel sanctions are appropriate. Any such sanction must be considered and effected consistent with applicable personnel laws, policies, and procedures, and the contractor shall take into account the seriousness of the misconduct and its impact, whether it was done knowingly or intentionally, and whether it was an isolated event or pattern of conduct.

(5) The Laboratory reserves the right to pursue such remedies and other actions as it deems appropriate consistent with the provisions of the award instrument and applicable laws and regulations. However, the contractor's good faith administration of this clause and the effectiveness of any remedial measures taken shall be positive considerations and shall be taken into account as mitigating factors in assessing the need for such actions. If the Laboratory pursues any such action, it will inform the subject of the action of the outcome and any applicable appeal procedures.

(f) Definitions.

(1) "Adjudication" means a formal review of a record of investigation of alleged research misconduct and its determination.

(2) "Adjudicating official" means the official responsible for an investigation whose findings are to be reviewed by an appropriate official or an appropriate committee of the laboratory that is independent of the individual responsible for the investigation.

(3) "Falsification" means manipulating research materials, equipment, or processes, or falsifying research records or reports.

(4) "Fabrication" means making up data or results and recording or reporting them.

(5) "Inquiry" means the informal examination and evaluation of the relevant facts.

(6) "Case file" means a written record of the investigation of alleged research misconduct and any corrective action taken in response to the investigation.

(7) "Research misconduct" means fabricating, falsifying, or plagiarizing research or other scholarly activities

(8) "Plagiarism" means the appropriation of another person's ideas, processes, results, or data without giving appropriate credit

(9) "Research" means all basic, applied, and demonstration research in all fields of science, medicine, engineering, and mathematics, including, but not limited to, research in

(10) "Research misconduct" means

(11) "Investigation" means the formal examination and evaluation of the relevant facts.

(12) "Research misconduct" means fabricating, falsifying, or plagiarizing research or other scholarly activities
66. 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 nonproliferation objectives. Although much of the work Argonne and its employees undertake to further its research and technology development mission is exempted from U.S. export control regulations, the laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls.

Any 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 may be subject to the United States or country of which you are visiting are subject to the U.S. or country of which you are visiting are subject to the U.S. or country of which you are visiting are subject to the U.S. The technology may be controlled by the non-U.S. government, but is the Laboratory can be held liable for improperly transferring controlled technologies.

Prior to transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:
- Fundamental research and information resulting from fundamental research
- Published information and software (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 the following guidelines in mind that without having acquired an export license prior to your trip, presentations and discussions must be limited to only those topics that are not on the Commerce Department’s “Unrestricted List.” Information and data that is not available for export is categorized as “Restriction on General” and may not be discussed or distributed.


d. The Contractor shall comply with all applicable U.S. export control laws and regulations.

The Contractor’s responsibility to comply with all applicable federal laws and regulations exists independently of, and not established or modified or altered by, any contract or the proposal upon which this contract is based. The Contractor will disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal prior to release.

67. DISPUTES IN CONFIDENTIALITY (JANUARY 2001)

Any discrepancy, inconsistency, or conflict in the SCHEDULE or in one or more of the documents identified in the Article entitled “Applicable Documentation” 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.

68. 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 appearing 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 in the proposal upon which this contract is based.

69. 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.

70. LIMITATIONS PERIOD (MAY 2002)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract must be identified in writing to the Laboratory Procurement Office. Such written notification must be received by the Laboratory Procurement Office within two (2) years (unless an earlier period is stated elsewhere in the contract) after the date of the notice on which this contract is based.

71. VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)

In the event a Government or Laboratory vehicle (including Laboratory-owned vehicle) will be utilized by a contractor, subcontractor, or employee of 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.

72. 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 traffic, a traffic light, stop sign, or otherwise.”

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

(3) “Send messages means reads receiving data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, so long as the device is programed so that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.”

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, enacted October 1, 2009. The Contractor is encouraged to—

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

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

(ii) Private contractor owned or on official Government business or when performing any work for or on behalf of the Government.

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

(i) Establishment of new rules and programs or re-evaluation of existing programs and procedures to prevent texting while driving; and

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

(c) The Contractor shall submit the substance of this clause, including this paragraph (d), in all subcontract agreements.

73. INTEGRATION CLAUSE (MAY 2001)

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

74. TECHNICAL STANDARDS PROGRAM (FEB 2011)

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

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

75. SUSPECT COUNTERFEIT PARTS (DEC 2007)

Notwithstanding any other provisions of this agreement, the contractor warrants that all items provided to the Laboratory shall be genuine, new and unused unless otherwise specified in writing by the Laboratory. Contractor further warrants that all items used by the contractor during the performance of work at the Argonne National Laboratory include all genuine, original, and new components, or are otherwise suitable for the intended purpose. Furthermore, the contractor shall indemnify the Laboratory, its agents, and third parties for any financial loss, injury, or property damage resulting directly or indirectly from material, components, or parts that are not genuine, original, and unused, or not otherwise suitable for the intended purpose. This includes, but is not limited to, materials that are defective, suspect, or counterfeit; materials that have been provided under false pretenses; and materials or items that are materially altered, damaged, deteriorated, degraded, or result in product 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>
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<tbody>
<tr>
<td>![Grade 5 Icon]</td>
<td>![Grade 8 Icon]</td>
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</table>

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

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

<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 8 fasteners with the following manufacturers' headmarks:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Asahi Mfg. (JP)</td>
</tr>
<tr>
<td>NF</td>
<td>Nippon Fasteners (JP)</td>
</tr>
<tr>
<td>H</td>
<td>Hinomoto Metal (JP)</td>
</tr>
<tr>
<td>M</td>
<td>Minamida Sieybo (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<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>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<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>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNY</td>
<td>Unytite (JP)</td>
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</table>

## Grade 8.2 fastener with the following headmark:

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

## Grade A325 fasteners (BENNITT 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*