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) Definition.

Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy nuclear facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who also met the eligible criteria contained in the guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors, with respect to work under its contract with the Department at the time the particular position is available.

(c) With respect to Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that if it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.

(d) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 603) expected to exceed $500,000.

2. COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement for understanding that a contingent fee, or a bona fide employee or agency. For breach or violation of this warranty, the Laboratory shall have the right to annul this contract without liability, or in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

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

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

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

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

3. EQUAL OPPORTUNITY (MAR 2007)

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

(b) If, during any 12-month period (including the 12 months preceding the award of this contract), the contractor has awarded nonmatrix Federal contracts and/or subcontracts that have an aggregate value in excess of $10,000, the contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(c) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor’s activities (41 CFR 60-1.3).

(d) The Contractor shall not engage in any contract against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause if the contractor determines that the race, color, religion, sex, or national origin of an individual may be a bona fide occupational qualification.

(e) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to—

(i) Employment;

(ii) Upgrading;

(iii) Transfer;

(iv) Recruitment or recruitment advertising;

(v) Layoff or termination;

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

(vii) Selection for training, including apprenticeship.

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

(g) The Contractor shall, in all solicitations or advertisements for employees placed by the contractor on behalf of the Contractor, and in all employee application forms, give full and equal consideration for employment without regard to race, color, religion, sex, or national origin.

(h) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

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

(j) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EO-1), or any successor form, as prescribed in 41 CFR part 60-1, or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 month period preceding the contract award, the Contractor shall file within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary information.

(k) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records, including computerized records, and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(l) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be denied modification, renewal, or cancellation of contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended, in the rules, regulations, and orders of the Secretary of Labor, or as otherwise provided by law.

3. EQUAL OPPORTUNITY FOR VETERANS (SEPT 2010)

This clause applies to all subcontracts with a value in excess of $100,000 unless exempted by rules, regulations, or orders of the Secretary of Labor.

(a) Definitions. As used in this clause, "Armed Forces service medal veteran," "disabled veteran," "other protected veteran," and "recently separated veteran," have the meanings given in the Equal Opportunity for Veterans clause 52.222-35.

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

(i) The total number of employees in the contractor’s workforce, by job category and hiring location, who are disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans.

(ii) The total number of new employees hired and/or new positions filled during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans, Armed Forces service medal veterans, and recently separated veterans; and

(iii) The maximum number and minimum number of Veterans who are federal employees, or subcontract or subgrantee employees at each hiring location during the period covered by the report.

The Contractor shall report as a "Veterans that will be included in the Form VETS-100A, entitled "Federal Contractor Veterans’ Employment Report (VETS-100A Report)."

The Contractor shall submit VETS-100A Reports no later than September 30 of each year. If the employment activity of the contractor’s corporate parent is included in this clause, the report shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date—

(i) As of the end of any pay period between July 1 and August 31 of the year the report is submitted or

(ii) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to report for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor’s knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-7.4(a)(2)), the knowledge of veterans status by the contractor. This paragraph does not relieve an employer of liability for discrimination under 38 U.S.C. 4212.

The Contractor shall conform to the terms of this clause in subcontracts of $100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

5. EQUAL OPPORTUNITY FOR VETERANS (SEPT 2010)

This clause applies to all subcontracts with a value of $100,000 or more.

(a) Definitions. As used in this clause—

"All employment openings" means all positions except executive and senior management, including positions that are exempt from civil service laws and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

"Armed Forces service medal veteran" means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which a United States armed forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

"Disabled veteran" means—

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

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

"Executive and senior management" means—

(i) Any employee,

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

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

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

(D) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing of employees and/or the advancement and promotion or any other change of status of other employees will be given particular weight; or

(E) Any employee who owns at least a bona fide 20 percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

"Other protected veteran" means a veteran who served on active duty in the U.S. military, ground, naval, or air service, and who was discharged or released from active duty because of a service-connected disability.

"Recently separated veteran" means any veteran during the three-year period beginning on the date of such veteran’s discharge or release from active duty in the U.S. military, ground, naval, or air service.
6. NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT

(DEC 2010)

7. NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT

(Applies To Contracts That Exceed $10,000 In Value)

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and form, and including the required text, to the employees of its labor organization, in conspicuous places in and about its places and offices where employees covered by the National Labor Relations Act are employed in activities in the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d)

(b) The required employee notice, printed by the Department of Labor, may be:
(i) Obtained from the Division of Interpretations and Standards, Office of Labor Management Relations, Northeast Area Office, Room N-5600, Washington, DC 20210, (202) 693-3123, or from any field office of the Federal Mediation and Conciliation Service, Office of Federal Contract Compliance Programs;
(ii) Provided by the Federal contracting agency if requested;
(iii) Downloaded from the Office of Labor-management Standards Web site at http://www.dol.gov/olms/reg/interpret/EO13498.htm;
(iv) Reproduced and used as exact duplicates of the copies of the Department of Labor's official notice.

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

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

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole or in part, and the contractor shall be subject to the procedures at 29 CFR 471.14 and subpart 9.4. Other such sanctions or remedies may be imposed as are provided in 29 CFR part 471, which implements Executive Order 13498 or as otherwise provided by law.

(f) Subcontracts.
(i) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds $10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.
(ii) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 of this clause.

(g) The Contractor shall take affirmative action to employ and advance in employment qualified employees and applicants who are disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal recipients.

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

6. EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2020)

(Applies to:
(i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item; or
(ii) Construction;
(iii) Has a value of more than $3,000; and
(iv) Includes work performed in the United States.

(a) Definitions. As used in this clause—

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

(1) Any item that is identified as a COTS item in the Employment Eligibility Verification System; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products. Per 46 CFR 525.1(c), "bulk cargo" means cargo that is loaded and carried in bulk on board ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count, and, therefore, ceases to be bulk cargo.

"Employee assigned to the contract" means an employee who was hired after November 6, 1985, who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 226.303.

"Noncommercial service" means any service, including the performance of services by employees of their rights under the National Labor Relations Act (NLRA), the primary law governing relations between unions and employers in the private sector. See 29 CFR part 471 for details.

"National Labor Relations Act" means the Act (29 U.S.C. 151 et seq.) and includes any amendments to the Act as well as any rules, regulations, or orders of the Labor Board issued under the Act.

"Contractor" means any contractor, subcontractor, or any individual who is performing work for the Government as a result of a contract or subcontract.

"Employee" means an employee who is performing work under a contract or subcontract.

"Employment eligibility verification" means the process of determining a person's eligibility for employment.

"Employee's identification number" means the Social Security number of an individual.

"Identification verification system" means a computerized system that compares Social Security numbers against records compiled by the Social Security Administration.

"Social Security card" means a card issued by the Social Security Administration that contains a person's Social Security number and other personal information.

6. NOTIFICATION OF EMPLOYEE RIGHTS UNDER FEDERAL LABOR LAWS - EXECUTIVE ORDER 11246 (APRIL 2020)

(Appplies to contracts that are required to be posted as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(a) Obtain copies of the Notice of Employee Rights Executive Order 13408, in Adobe Reader (.pdf) format, can be downloaded from the link: https://www.dol.gov/agencies/whd/employee-privileges/employee-rights-poster/11x17. Final pdf. If you are unable to obtain these, you can send a request to omb-office@doj.gov or call (202) 693-0123. Contractors may also reproduce copies in the following formats:

• Notice of Employee Rights Under Federal Labor Laws - 11x17-inch one-page format

• Notice of Employee Rights Under Federal Labor Laws - 11x8.5-inch two-page format (PDF)
9. AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)

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

(i) 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 without discrimination based upon their physical or mental disability in all employment practices such as—

(a) Recruitment, advertising, and job application procedures;
(b) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;
(c) Rates of pay or any other benefits and compensation and changes in compensation;
(d) Job assignments, job classifications, organizational positions, status descriptions, lines of progression, and seniority lists;
(e) Leaves of absence, sick leave, or any other leave;
(f) fringe benefits, employee regulations, and attendance, whether or not administered by the Contractor;
(g) Selection and training, and support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
(h) Activities sponsored by the Contractor, including social or recreational programs; and
(i) Any other term, condition, or privilege of employment.

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

10. SECURITY (MAR 2011)

a. Responsibility. The Contractor is the party to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, material, and special nuclear material) which are in the Contractor’s possession in connection with the performance of work under this contract against sabotage, espionage, loss, or theft. As excepted otherwise expressly provided in this contract, the Contractor is responsible for protecting against unauthorized disclosure of information, as amended, prior executive orders, which is identified as National Security Information.

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

c. Definition of Classified Information. The term “Classified Information” means information that is defined as Restricted Data or Finally Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, classified National Security Information, as amended, or prior executive orders, which is identified as National Security Information.

d. Definition of Restricted Data. The term “Restricted Data” means all data concerning design, development, manufacture, or utilization of atomic weapons; production of special nuclear material; or utilization of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2102 (Section 142, as amended, of the Atomic Energy Act of 1954).

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

f. Definition of Special Nuclear Material. The term “special nuclear material” means:

(1) Plutonium and uranium enriched to 20% or more by isotopes 235, and any other material; and
(2) Any material artificially enriched by any of the foregoing, but does not include source material.

(g) Access authorizations of personnel.

1. The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and in accordance with applicable DOE security provisions of the contract, unless the individual is an employee of the Contractor who has been given an access authorization by DOE.

2. The Contractor must conduct a thorough review, as defined at 48 CFR 9.401, of each applicant for a DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12958. Access to each individual’s security clearance must include the following information:

(a) Whether the individual is a U.S. citizen;
(b) Whether the individual has a valid U.S. driver’s license;
(c) Whether the individual is under any criminal investigation or indictment;
(d) Whether the individual has been convicted of a crime involving moral turpitude;
(e) Whether the individual has been adjudicated a mental defective or an alcoholic;
(f) Whether the individual has been dishonorably discharged from the Armed Forces;
(g) Whether the individual has any pending applications for U.S. citizenship;
(h) Whether the individual is on any federal, state, or local “Watch List” or “No Fly List”;
(i) Whether the individual is under any other investigative, security, or other clearance-related activity by any government agency;
(j) Whether the individual is on a civil service debarment list;
(k) Whether the individual is on any other similar list or list of criteria.

3. 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 may be reapproved without a federal background investigation pursuant to Executive Order 12958. Access to each individual’s security clearance must include the following information:

(a) Whether the individual is a U.S. citizen;
(b) Whether the individual has a valid U.S. driver’s license;
(c) Whether the individual has been convicted of a crime involving moral turpitude;
(d) Whether the individual has been adjudicated a mental defective or an alcoholic;
(e) Whether the individual has been dishonorably discharged from the Armed Forces;
(f) Whether the individual has any pending applications for U.S. citizenship;
(g) Whether the individual is under any other investigative, security, or other clearance-related activity by any government agency;
(h) Whether the individual is on a civil service debarment list;
(i) Whether the individual is on any other similar list or list of criteria.

4. In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR Part 707.4. All positions requiring access authorizations are deemed testing designated positions in accordance with 10 CFR Part 707. All
employees possessing access authorizations are subject to applicant, random, or cause-based testing for use of illegal drugs. DOE will not process products that are—

(4) To insert the substance of this clause into any nonexempt subcontract, including this one.

10. CLASSIFICATION/DEROGATION/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 any DOE directives which incorporate work involving the classification and declassification of information, documents, or material. In this section, “information” means facts, data, or knowledge; “document” means the physical medium on or in which information is recorded or produced; and “material” means anything that contains or reveals information, regardless of its physical form or characteristics. Classified information is “Restricted Data” and “Ferguson Restricted Data” as defined in the Atomic Energy Act of 1954, as amended and the “National Security Information” (classified under Executive Order 12958 or prior Executive Orders). The original decision to classify or declassify information is considered an inherently Government function. For this reason, only Government personnel may serve as original classifiers, i.e., Government Federal Government Original Classifiers. Each reporting contractor or subcontractor shall maintain a facility; and (c) design or procure for combat or combat-related missions (42 U.S.C. 8259b).

The contractor or subcontractor shall ensure that such information is reviewed by a Federal Government Original Classifier. In addition, the contractor or subcontractor shall ensure that existing classified documents (containing either Restricted Data or Formerly Restricted Data or National Security Information) which are in its possession or under its control are periodically reviewed by a Federal Government or contractor Derivative Classifier in accordance with classification regulations, mandatory DOE requirements, and other requirements furnished to the contractor by the Department of Energy to determine if the documents are no longer appropriately classified. Classified documents which are no longer determined to be appropriately classified and which are designated as declassified and determined to be publicly releasable are to be made available to the public in order to maximize the use of government and contractor derived information as possible while minimizing potential national security concerns. The contractor or subcontractor shall insert this clause in any subcontract which involves or may involve access to classified information.

12. CLEAN AIR AND WATER (APR 1984)

(a) “Air Act,” as used in this clause, means the Clean Air Act (42 U.S.C. 7401 et seq.). “Clean air standards,” as used in this clause, means—

1. Any enforceable rules, regulations, guidelines, standards, limitations, orders, prohibitions, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738;

(c) An approved implementation procedure or plan under section 111(c) or section 1110 of the Air Act (42 U.S.C. 7412).


(b) The contractor agrees—

(a) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 306 of the Clean Water Act (33 U.S.C. 1313) relating to the establishment and enforcement of performance requirements for control of toxic chemical releases.

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are—

(1) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance;

(4) To specify in the design of a building or work, or incorporated during its construction, renovation, or maintenance;

(5) To specify in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(1) Meets the requirement of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label;

(2) That no portion of the work required by this contract will be performed in a facility (including any facility owned, leased, or supervised by the Contractor) on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) Use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any one exempted subcontracting clause, including this subparagraph (b)(4).

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

(a) Definition. As used in this clause—

“Energy-efficient product”—

(1) “Product” means a product that—

(1) To comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C. 7414) and section 306 of the Clean Water Act (33 U.S.C. 1313) relating to the establishment and enforcement of performance requirements for control of toxic chemical releases.

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are—

(1) Meets the requirement of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label;

(2) That no portion of the work required by this contract will be performed in a facility (including any facility owned, leased, or supervised by the Contractor) on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) Use best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any one exempted subcontracting clause, including this subparagraph (b)(4).

14. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023a(1) and (g), and section 311 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13110). The Contractor shall file for each facility subject to the Form R requirements, whether owned by the Contractor or operated for the Contractor under a contract.

(b) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the requirement to file an Annual Form R if—

(1) The facility does not manufacture, process, or otherwise handle any toxic chemical listed in 40 CFR 372.85;

(2) The facility does not own 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A); or

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 311 of EPCRA, 42 U.S.C. 11023(b)(1), including the alternative thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA;

(4) The facility does not fall within Skillman Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors.

Major group code 10 (except 1011, 1018, and 1094).
17. Definitions. As used in this clause—International air transportation means transportation by
(a) Major group code 12 (except 1243).
(b) Major group codes 20 through 39.
(c) Industry code 4911, 4931, or 4939 (limited to facilities that contribute coal and/or oil for distribution in commerce).
(d) Industry code 4953 (limited to facilities regulated under the Resource
(e) The facility is not located in Canada or its outlying areas.
(f) The Contractor has certified to an exemption in accordance with one or more of the criteria
(g) The Contractor shall notify the Laboratory Procurement Representative:
1. Submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible;
2. Continue to file the annual Form R for the life of the contract for such facility.
3. The Laboratory Procurement Representative may terminate this contract or take other actions appropriate, if the Contractor fails to file Form R or the EPCPA and PPA toxic chemical release filing and reporting requirements.
4. For acquisitions of commercial items as defined in FAR Part 2, the Contractor shall—
(a) For competitive subcontracts expected to exceed $100,000 (including all options), include a solicitation notice as to the hazards involved (OMB No. 0450-0030).
(b) If the Contractor has certified to an exemption in accordance with one or more of the criteria
(c) The Contractor shall submit to the address identified below, for prepayment audit,
(d) Furnished to, or for the account of, any foreign nation without provision for
(e) The Contractor shall include the substance of this clause, including this paragraph (e), in
(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial
15. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)
(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, prior to the delivery of, or prior to completion of any servicing required by this contract, of items containing either-
(b) If there has been no change affecting the quantity of activity, or the characteristics
(c) The Contractor shall notify the Laboratory Procurement Representative or designee
(d) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading
(e) The Contractor shall include the substance of this clause, including this paragraph (d), in
(f) The Contractor shall submit the above referenced transportation documents to—
17. PREFERENCE FOR U.S. FLAG AIR CARRIERS (JUN 2003)
(a) The Contractor shall submit to the address identified below, for prepayment audit,
(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50%
(c) Acquired for a U.S. Government agency account;
(d) The Contractor shall notify the Laboratory Procurement Representative;
(e) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading
18. PREFERENCE FOR PRIVATELY OWNED U.S.—FLAG COMMERCIAL VESSELS (FEB 2006)
(a) Except as provided in paragraph (d) of this clause, the Cargo Preference Act of 1954 (46
(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50% of the gross tonnage of equipment, materials, and supplies that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo lines, and tankers) whenever shipping any equipment, materials, or supplies under the contract for which such ocean transportation is required. Veterans Administration (VA) contracts for the
(c) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment for both—
19. APPLICABLE LAW (OCT 1999)
To the extent that Federal law does not exist and State law could become applicable to this contract, the law of Illinois shall apply.
20. SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2011)
This clause does not apply to small business concerns
(a) Definitions. As used in this clause—
1. "Alaska Native Corporation (ANC)" means any Regional Corporation, Village
2. "Commercial item" means a product or service that satisfies the
3. "Commercial item" means a subcontracting plan (including goals that covers the
4. "Indian tribe" means any Indian tribe, band, group, pueblo, or community, including

b. The offeror, upon request by the Laboratory Procurement Official, shall submit and negotiate the subcontracting plan similar to the plan that complies with the requirements of this clause. The subcontracting plan shall be made available to the offeror throughout the negotiation of the contract.

c. The offeror's subcontracting plan shall include the following:

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

2. A statement as to whether or not the offeror included indirect costs in establishing the proportionate share of indirect costs to be incurred with –

   a. Small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns;

   b. Service-disabled veteran-owned small business;

   c. HUBZone small business concerns;

   d. Small disadvantaged business concerns;

   e. Minority Institutions.

3. A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to –

   a. Small business concerns;

   b. Veteran-owned small business concerns;

   c. Service-disabled veteran-owned small business concerns;

   d. HUBZone small business concerns;

   e. Small disadvantaged business concerns;

   f. Women-owned small business concerns.

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

5. A description of the method used to identify potential sources for solicitation purposes (e.g., existing company files, trade associations, Central Contractor Registration database (CCR), veterans service organizations, National Minority Purchasing Council (NMPC) information sources, and other data that identify small business, small disadvantaged business, HUBZone small business, service-disabled veteran-owned small business, and women-owned small business concerns) and to select sources for potential subcontracting.

6. A description 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 (i.e., 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);

   b. 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);

   f. Women-owned small business concerns.

7. The Department of the Army's Office of Small Business Procurement, when awarding a contract to an offeror who will administer the offeror’s subcontracting program, and a description of the duties of the individual.

8. A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
e. A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d)(1) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeree by this clause; provided –

1. The master plan has been approved by the Contracting Officer.
2. The offeree ensures that the master plan is updated as necessary and provides copies of the updated master plan, including evidence of its approval, to the Contracting Officer.

3. Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

f. A commercial plan is the preferred type of subcontracting plan for contractors furnishing commodities or services. The commercial plan is a report (without cost data) that is designed to facilitate and promote the utilization of small business concerns directly or through your larger prime contracts. This plan shall be prepared based on the fiscal year the contract was awarded to the contractor. The plan is required to show the percentage of dollars attributable to each agency from which contracts were awarded to that subcontractor under its predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

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

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

(b) The contractor agrees to notify the Laboratory if the contractor believes, including this paragraph (b), in any subcontract to which a labor dispute may delay the timely performance of this contract: exists that may delay or, if the subcontractor's timely performance is delayed or threatened by delay or any actual or potential labor dispute, the contractor shall immediately notify the next higher tier subcontractor or the contractor, as the case may be, of all relevant information concerning the dispute.

22. REPORTS (OCT 1999)

The contractor shall furnish immediate reports to the Laboratory from time to time when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

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 52.204-3, on the date of agreement on price or the date of award, whichever is later, or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 52.204-3, the prime contractor is required to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 52.408, Table 15-2 (to include any information reasonably required to explain the estimates used), or to obtain other information from the subcontractor that is reasonably necessary for the prime contractor to reasonably and accurately estimate the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting known data, and the amount of any contingencies included in the price, unless an exception under FAR 55.403-1 applies.

(b) The contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 52.216-7 (that is, in the form prescribed for the Federal Acquisition Regulation (FAR)) that the subcontractor has submitted or will submit, as applicable, subcontracting and small business utilization data required by FAR 52.215-1, Subcontractor Cost or Pricing Data—Modifications.

(c) In each subcontract that exceeds the threshold for submission of certified cost or pricing data at FAR 52.215-1, when entered into, the Contractor shall insert—

(1) The substance of this clause, and paragraph (a) of this clause requires submission of certified cost or pricing data for the subcontract, or

(2) The substance of this clause at FAR 52.215-1, Subcontractor Cost or Pricing Data—Modifications.

24. UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 2011)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small businesses, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall be given the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for construction, by competitive and other methods of procurement.

(b) The contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract to which a labor dispute may delay the timely performance of this contract:

(1) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(2) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(3) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(4) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(5) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(6) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(7) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

(8) The contractor shall provide, when requested, as may be required by the Laboratory, concerning activities of the contractor under this contract and shall make such final reports as may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.
25. SUBCONTRACTOR COST OR PRICING DATA—MODIFICATIONS (OCT 2010)

(a) The requirements of paragraphs (b) and (c) of this clause shall—
(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4; and
(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date the award was made, whichever is later; or before any pricing 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 Contracting Officer shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with FAR 15.406. Table 15-2 [to include any information reasonably required to explain the subcontractor’s estimating process and pricing factors] applies to the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price, unless an exception under FAR 15.403-4 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds 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.

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

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because—
(1) The Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;
(2) A subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor’s Certificate of Current Cost or Pricing Data; or
(3) Any of these parties furnished data of any description that were not accurate, the cost or price shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontractor cost estimate submitted by the Contractor; provided, however, if the actual subcontract price was not itself affected by defective certified cost or pricing data—
(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or fee reduction would not be made, the Contracting Officer shall notice the following matters as a defense:
   (i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.
   (ii) The Contracting Officer should have known that the certified cost or pricing data were not complete, current, and accurate as certified in the Contractor’s Certificate of Current Cost or Pricing Data.

(c) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be required to pay the unliquidated amount of such overpayment to the Government.

(d) Any overpayment as a result of an offset shall be allowed against the amount of a contract price reduction if—
(1) The Contractor certifies to the Contracting Officer that, to the best of its knowledge and belief, the contractor is entitled to the offset in the amount requested; and
(2) 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).

(a) Definitions. As used in this clause—
"Added value" means that the Contractor performs subcontract management functions that the Contracting Officer determines are a benefit to the Government (e.g., processing orders of parts or services, doing paperwork, maintaining multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).

(b) The Government proves that the facts demonstrate that the contract price or fee should not have been increased by the amount of the pass-through charge.

(c) The Contractor shall notify the Contracting Officer in writing if—
(1) The Contractor cannot demonstrate to the Contracting Officer that its effort added value to the contract or subcontract in accomplishing the work performed under the contract or subcontract (including task or delivery orders).

(d) The Government shall not be entitled to pass-through charges on which the Contractor has been reimbursed.

(e) Access to records.

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At any time during contract performance, but no later than 6 months (or such other time as agreed)
by the Laboratory and the Contractor, the Laboratory shall ascertain the facts and extent of the
failure to perform. (b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or
substituted performance, the Laboratory may—

5. Provisions for replacement or correction—

(f) Flowdown. The Contractor shall insert the substance of this clause, including this paragraph (f), in all cost-reimbursement subcontracts under this contract that exceed the simplified acquisition threshold, in this case $35,000. If the change needs to be reduced to a fixed-price reimbursement subcontracts and fixed-price subcontracts, except those identified in 15.404-16(b)(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)

(a) The Laboratory may at any time, by written order, and without notice to the sureties, if any, make
changes within the general scope of the contract, but no change may be made to any one or more of the following:

1. 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;

2. Method of shipment or packing;

3. Place of delivery;

4. Description of services to be performed.

(b) If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this contract, the Laboratory shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the contract accordingly.

(c) The contractor shall submit any “proposal for adjustment” (hereinafter referred to as proposal) under this clause within 30 days of the date of receipt of the written order. However, if the change in performance results in the facts justifying the proposal, the Laboratory may receive and act upon a proposal submitted before final payment of the contract.

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

(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of the contract and, if this contract is incrementally funded, the funds allotted for the performance of this contract, shall not be increased or considered to be increased except by specific written modification of the contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract. If a modification is made, the contractor shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

30. EXCUSABLE DELAYS (OCT 1999)

(a) Except for defaults of subcontractors at any tier, the contractor shall not be in default because of any failure to perform this contract, unless the failure causes beyond the control and without the fault or negligence of the contractor. Examples of these causes are (1) acts of God; (2) acts of the contractor, and whether or not the contractor shall be deemed to be in default, unless—

1. The subcontracted supplies or services were obtainable from other sources;

2. The Laboratory ordered the contractor in writing to purchase these supplies or services from the other source; and

3. The contractor failed to comply reasonably with this order.

(b) Upon request of the contractor, the Laboratory shall ascertain the facts and extent of the failure to perform. If 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—

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

1. All or substantially all of the Contractor’s business;

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

3. A separate and complete major industrial operation connected with performing this contract.

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

(b) The Contractor shall provide and maintain an inspection system acceptable to the Laboratory covering the supplies, fabricating the supplies, and testing under 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 at least 5 years after the contract is completed. The Laboratory has the right to inspect and test the contract supplies, to the extent practiced at all places and times, including the contractor’s premises, contractor’s storage, and contractor’s manufacture, before acceptance. The Laboratory may also inspect the 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.

(c) If the Laboratory performs inspection or test 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 inspections.

(d) Unless otherwise specified in the contract, the Laboratory shall accept supplies as promptly as practicable after delivery, and supplies shall be deemed accepted 60 days after delivery, unless otherwise agreed.

(e) 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 Contractor may require the Contractor to replace or correct any supplies that are nonconforming at time of delivery. Supplies are nonconforming when they are defective in design, workmanship, or otherwise of such character that, if the supplies were in place when used, they would not function as intended. Except as otherwise provided in paragraph (f) 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 corrective action taken.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Laboratory, nor approval of the Contractor’s purchasing system, shall constitute a determination—

1. Of the acceptability of any subcontract terms or conditions;
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 by writing in the Laboratory. The Laboratory may assign this contract in whole or part to any contractor or subcontractor of the Government or its designee. The Laboratory may assign this contract to a successor operator of the Laboratory.

35. SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2010)

(a) Definitions. As used in this clause—

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

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

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

(i) 52.220-13, Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 111-252, Title VI, Chapter 1 (41 U.S.C. 251, note)), if the subcontract exceeds $5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the contracting officer for the Laboratory, the Contractor shall maintain the provisions relating to the violation of the False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.221-19, Utilization of Small Business Concerns (Dec 2010) (15 U.S.C. 637(g)(2) and (5)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds $500,000 (31.5 million for construction of any construction facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer further subcontracting opportunities.

(iii) 52.222-26, Equal Opportunity (Mar 2007) (E.O. 12146).

(iv) 52.222-35, Equal Opportunity for Veterans (Sep 2010) (38 U.S.C. 4212(a)).


(vi) 52.226-10, Notification of Employees Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(vii) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(a)).

(viii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2621), if flow down is required in accordance with paragraph (f) of FAR clause 52.247-64.

(c) (2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its subcontract obligations.

(c) (3) The Contractor shall include the terms of this clause, including this paragraph (d), in all subcontracts awarded under this contract.

36. GOVERNMENT PROPERTY (AUG 2010)

(a) Definitions. As used in this clause—

"Acquisition cost" means the costs to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or ordinary use.

"Cannibalize" means to remove parts from Government property for use or for installation on other Government property.

"Contractor-acquired property" means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.

"Contractor inventory" means—

(1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract with the Government for which title to the property is to be acquired and which is consigned to the Government and which exceed the amounts needed to complete full performance under the entire contract.

(2) Any property that the Government is obligated or has the option to take over under any type of contract, e.g., as an alternative to changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), to preserve the value of or to continue the operations of the Government.

"Government-furnished property" that exceeds the amounts needed to complete full performance under the entire contract.

"Contractor's managerial personnel" means the Contractor's directors, officers, managers, superintendents, or equivalent representatives having supervision or direction of—

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

(2) All or substantially all of the Contractor's operation at any one plant or separate location; or

(3) A separate and complete major industrial operation.

"Dismantle" means rendering items inoperable for, and not restorable to, the purpose for which it was designed or is customarily used.

"Discrepancies incident to shipment" means any differences (e.g., count or condition) between items documented to have been shipped and items actually received.

"Equipment" means a tangible item that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment does not include material, real property, special equipment or special tooling.

"Government-furnished property" means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract. Government-furnished property includes, but is not limited to, spaces and property furnished for repair, maintenance, overhaul, or modification. Government-furnished property also includes contractor-acquired property if the contractor-acquired property is a deliverable under a cost contract when accepted by the Government for continued use under the contract.

"Government property" means all property owned or leased by the Government, Government property includes material, equipment, training, technical data, and property owned by the Government, or property owned by the Government, or property owned by the Government that is used by the Contractor in performing a contract. Government property does not include intellectual property and software. "Material" means property that may be consumed or expended during the performance of a contract. Components of items to be supplied under this contract. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals. "Property" means all tangible property, both real and personal. "Property Administrator" means an authorized representative of the Laboratory Procurement Official appointed in accordance with agency procedures, responsible for administering contract requirements and obligations relating to Government property in the possession of a Contractor. "Property Records" means the records created and maintained by the contractor in support of its stewardship responsibilities for the management of Government property.

(b) Government management.

(1) The Government shall have a system to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to secure this purpose of this contract. The Contractor shall establish and maintain the processes, systems, procedures, records, and methodologies necessary to ensure government property is received in accordance with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Contractor shall disclose any significant changes or changes to their property management system to the Property Administrator.

(2) The Contractor's responsibility extends from the initial receipt and acquisition of receipt of property, through stewardship, custody, and use until finally removed of property from the property. Examples of cost necessary to maintain, to be kept, or not otherwise disposed of by the customer, in the course of the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for use, files for the entire duration of the contract. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.

(3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.

(c) Use of Government property.

(1) The Contractor shall use Government property, either furnished or acquired under this contract, only for the purpose for which it was designed or is customarily used.

(2) Government property is prohibited, unless they are—

(1) Reasonable and necessary due to the scope of work under this contract or its terms and conditions;

(2) Required for normal maintenance; or

(3) Otherwise authorized by the Laboratory Procurement Official.

(2) The Contractor shall not cannibalize Government property unless otherwise provided for in this contract or approved by the Laboratory Procurement Official.

(d) Government-furnished property.

(1) The Government may deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information required for the efficient and economic use of the property. The Contractor shall disclose any significant changes to their property management system to the Property Administrator.

(2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance at the time of delivery. The property will be delivered to the Contractor at the time stated in the contract.

(3) If the property is not delivered to the Contractor by the dates stated in the contract, the Laboratory Procurement Official shall, upon the Contractor's timely written request, consider an equitable adjustment to the contract.

(4) In the event property is received by the Contractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, the Laboratory Procurement Official shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include replacing, repairing, modifying, returning, or otherwise disposing of the property at the Government's expense. Upon completion of the required action(s), the Laboratory Procurement Official shall consider an equitable adjustment to the contract (see also paragraph (f)(1)(ii)(A) of this clause).

(5) The Government property may be at an 'as-issued' condition. The Contractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for contract performance. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.

(6) The Laboratory Procurement Official may by written notice, at any time—

(A) Increase or decrease the amount of Government-furnished property under the contract.

(B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract, the Contractor for the Government under this contract.

(C) Withdraw authority to use property.

(7) Upon completion of any action(s) under paragraph (b)(3) of this clause, the Contractor shall notify the Laboratory Procurement Official, which shall consider an equitable adjustment to the contract.

(e) Title to Government property.

(1) The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) Fixed-price contracts.
Contractor plans and systems

Reimbursable contract line items under Fixed-Price contracts

Title to all property purchased by the Contractor for which the Contractor is responsible, except as otherwise provided in the contract.

All Government-furnished property and all property acquired by the Contractor shall be the property of the Contractor. Title to all property purchased by the Contractor, for which the Contractor is responsible, except as otherwise provided in the contract, shall vest in the Government upon the Government's assumption of risk for loss, theft, damage or destruction of Government property when such property is—

(A) Lost, stolen, damaged or destroyed. Unless otherwise directed by the Government, the Contractor shall be entitled to such reimbursement as is allowable in accordance with applicable law, if the loss was not the result of fraud by the Contractor.

(B) Disposition.

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(vii) Relief of stewardship responsibility. Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility for Government property when such property is assigned to another party.

(vii) Reimbursement of the cost of the property by the Government, unless otherwise provided by the contract or by the Property Administrator, where the Contractor shall document that all property was furnished and that any overages, shortages, or damages and/or other discrepancies are accounted for.

(viii) Utilizing Government property.

The Contractor shall utilize, consume, move, and store Government property as directed by the Contracting Officer. The Contractor shall promptly disclose and report to the Property Administrator any loss, theft, damage or destruction of Government property.

(ix) Maintenance. The Contractor shall maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of periodic inspections of property, the identification of discrepancies and/or inconsistencies, and the performance of periodic inventory adjustments of material as determined by the Property Administrator. The Contractor's Property Administrator contract property closeout, to include reporting, investigating, and securing disposal of all loss, theft, damage or destructions.

(x) Loss, theft, damage or destruction of Government property. The Contractor shall take actions, and cooperate, including the prosecution of suit and the execution of instruments of assignment in favor of the Government and obtaining recovery. The Contractor shall have a process to create and provide reports of management and control of Government property under this contract, or present an alternative for Lost, stolen, damaged or destroyed Government property from further loss, theft, damage or destruction. The Contractor shall promptly report to the Government any loss, theft, damage or destruction of Government property that is excess to contract performance. The Contractor shall promptly disclose and report to the Property Administrator any loss, theft, damage or destruction of Government property.
(i) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Government shall not be liable for breach of contract for the following:

(A) Failure to furnish Government-furnished property.

(B) Delivery of Government-furnished property in a condition not suitable for its intended use.

(C) Increase, decrease, or substitution of Government-furnished property.

(D) Failure to repair or replace Government property for which the Government is responsible.

(ii) Contractor inventory disposal. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.

(iii) Scrap to which the Government has obtained title under paragraph (e) of this clause.

(A) If the Contractor has an approved scrap procedure:

(1) Contractor may dispose of scrap resulting from production or testing under this contract without Government approval.

(ii) The Contractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures).

(C) Inventory disposal schedules shall be submitted for each aircraft of regardless of condition, flight safety critical aircraft parts, and scrap that—

(1) Requires demilitarization;

(2) Is a classified item;

(3) Is generated from classified items;

(4) Contains hazardous materials or hazardous wastes;

(5) Contains precious metals that are economically beneficial to the contractor; and

(6) Is dangerous to the public health, safety, or welfare.

(D) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Laboratory Procurement Official, following completion of contract deliveries or performance.

(iv) Contractor inventory disposal. The Contractor shall submit an inventory disposal schedule for all scrap. The Contractor may not dispose of scrap resulting from production or testing under this contract without Government approval.

(v) Predisposal requirements.

(A) The Contractor must contact the Government Procurement Official if use of the property in the performance of other Government contracts is practical.

(B) May purchase the property at the acquittal cost (cost plus profit).

(C) Shall make reasonable efforts to return unused property to the appropriate Government or other governmental entity (federal, state, or local) at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(D) May contact the Laboratory Procurement Official following contract termination in whole or in part.

(E) The Contractor shall submit, on Standard Form 1428, Inventory Disposal Schedule, property that was not listed on the performance of other Government contracts (paragraph (c)(1) of this clause), a scrap list that was not purchased under paragraph (g)(2)(ii)(B) of this clause, and property that could not be returned to a supplier under paragraph (g)(2)(ii)(C) of this clause.

(F) Shall prepare separate inventory disposal schedules for——

(1) Special test equipment with commercial components;

(2) Test items with commercial components;

(3) Test items with special test equipment;

(4) Special test equipment without commercial components;

(5) Special test equipment;

(6) Nuclear materials or nuclear wastes;

(7) Nonnuclear hazardous materials or hazardous wastes; or

(8) Nuclear materials or nuclear wastes.

(G) The Contractor shall provide information required by FAR 52.225-11(b)(1)(iii)(a) with the following:

(A) Any additional information that may facilitate understanding of the property's intended use.

(B) For in-process, the percentage of completion.

(C) For precious metals, the type of metal and estimated weight.

(D) For material property or property contaminated with hazardous material, the Co or 60-day period.

(E) For materials in metal product form, the form, shape, treatment, hardness, temper, specification (commercial or Governmental) and dimensions (thickness, width and length).

(F) Property with the same description, condition code, and reporting location may be grouped in a single schedule.

(G) Scarp to be reported by "lot" along with metal content, estimated weight and estimated value.

(H) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than——

(i) 30 days following the Contractor's determination that a Government property item is no longer required for performance of this contract;

(ii) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following the listed scrap shipment deliveries or performance;

(iii) 120 days, or such longer period as may be approved by the Laboratory Procurement Official following contract termination in whole or in part.

(I) Corrections. The Plant Clearance Officer may——

(A) Reject a schedule for cause (e.g., contains errors, determined to be inaccurate), and

(B) Require the Contractor to correct an inventory disposal schedule.

(J) Postsubmittal adjustments. The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance if it is necessary to change or cancel an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory disposal schedule.

(K) Storage. The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 12 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 12th day.

(L) The Contractor shall submit a proposal for the disposal of the property to the Government, in accordance with the requirements of paragraph (f)(4) of this clause.

(2) Abandonment of Government property.

(A) The Government shall not abandon sensitive Government property or termination inventory without the written consent of the Plant Clearance Officer.

(B) The Government, upon notice to the Contractor, may abandon any non-sensitive Government property in place at any time all obligations of the Government regarding such property shall cease.

(C) The Government has no obligation to restore or rehabilitate the Contractor's property under any circumstances; however, Government-owned property that is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(D) Communication. All communications under this clause shall be in writing.

(ii) For contracts other than reimbursement, labor hour, time and materials, and fixed price types, substitute the following for paragraph (e)(3) of the basic clause:

(A) The Contractor shall notify the Plant Clearance Officer following contract termination in whole or in part.

(B) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of property purchased with funds available for research and having an acquisition cost of less than $5,000, shall assign it to the Contractor upon acquisition or as soon thereafter as feasible; provided that the Contractor obtains the Laboratory Procurement Official's approval before such acquisition.

(C) Title to property purchased with funds available for research and having an acquisition cost of $5,000 or more shall vest as set forth in this contract. If title to property vests in the Contractor under this paragraph, the Contractor agrees that no costs shall be allowed for any depreciation, amortization, or conversion use under this contract;

(D) If the Government does not furnish disposition instructions to the Contractor, the Contractor shall obtain the Laboratory Procurement Official's approval under this paragraph within 10 days following the end of the calendar quarter during which such property was received.

(E) If the Contractor does not contact the Government Procurement Officer following the receipt of this contract, the Contractor may not contact the Government Procurement Officer following the receipt of this contract.

(F) If the Contractor does not notify the Government Procurement Official following the receipt of this contract, the Contractor may not dispose of any property under this contract.

37. KEY PERSONNEL (DEC 2000)

(a) The personnel listed in Clause 39, Key Personnel, are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed personnel, the Contractor is required to——

(1) Notify the Laboratory Procurement Official reasonably in advance;

(2) Submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and

(3) Obtain the Laboratory Procurement Official's written approval.

(b) The Contractor shall notify the Government of any proposed assignment or removal of any employee listed in the Schedule of Key Personnel. The Contractor shall comply with the requirements of this section, and the Government may require the Contractor to obtain written approval for any proposed assignment or removal of any employee listed in the Schedule of Key Personnel.

(c) The Contractor is responsible for ensuring that all key personnel are adequately trained and qualified to perform the work assigned to them. The Contractor shall ensure that all key personnel are adequately trained and qualified to perform the work assigned to them.

38. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT — OVERTIME COMPENSATION (JULY 2005)

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) shall require or permit them to work over the standard workweek of 40 hours without payment of overtime wages required by the Contract Work Hours and Safety Standards Act.

(b) Withholding of unpaid wages and liquidated damages. The Laboratory Procurement Representative will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities for unpaid wages and liquidated damages.
When the contract requires the specification or delivery of energy consuming products for use in Energy Consuming Products
The contractor warrants that the items delivered hereunder are merchantable and fit for use for the (http://www.archives.gov/federal-register/executive-orders/disposition.html). The Contractor shall Performance. This guide includes information concerning recycled content products, bio-based Considerations Regarding Federal Leadership in Environmental, Energy, and Economic also consider the best practices within the DOE Acquisition Guide, Chapter 23, Acquisition Cost of components does not include any costs associated with the manufacture of the end product.

39. WALSH-HEALEY PUBLIC CONTRACTS ACT (OCT 2010)
When this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed $15,000.00 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S.C. 35), there are hereby incorporated by reference all 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 interpretations of the Secretary of Labor which are now or may hereafter be in effect.

40. INTEGRITY OF UNIT PRICES (OCT 2010)
This clause applies to all subcontracts that exceed $50,000.00.
(a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable, nor is a variation in base cost (e.g., base cost minus any of the aforementioned costs) that is not acceptable. Nothing in this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.
(b) Whenever the contractor requests the Contractor's Office, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.
(c) The contractor shall set the subcontracts for other than acquisitions at or below the simplified acquisition threshold in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41, and services where supplies are not required; commercial items; and petroleum products.

41. WARRANTY OF SERVICES (MAY 2001)
(a) “Acceptance,” as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract of this clause, less paragraph (b), through delivery of the contract.
(b) Notwithstanding inspection and acceptance by the Laboratory or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The Laboratory Procurement Official shall give written notice of any defect or nonconformance within 30 days from the date of acceptance by the Laboratory. This notice shall state either—

(i) That the Contractor shall correct or perform any defective or nonconforming services;

(ii) That the Laboratory does not require correction or reperformance;

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

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

42. WARRANTY OF SUPPLIES (DEC 2011)
The contractor warrants that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

43. BUY AMERICAN ACT – SUPPLIES (FEB 2009)
(a) Definitions. As used in this clause—

(i) “Commerically available off-the-shelf (COTS) item”—

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

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

(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 of specification or delivery, in the same form in which it is sold in the commercial marketplace; and

(ii) “Component” means an article, material, or supply incorporated directly into an end product.

(b) When requested by the Contracting Officer, the Contractor is required to—

(1) Identify all components to be included, and provide a list of all components; and

(2) For components identified by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in FAR 52.204-7014(c). Cost of components including profit. Cost of components does not include any costs associated with the manufacture of the end product.

(c) “End product” means those articles, materials, and supplies to be acquired under the contract for public use.

(d) “Foreign end product” means an end product other than a domestic end product.

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

(2) An end product that is part of the end product mined or produced in the United States exceeds 50 percent of the cost of all its components. Components of foreign or domestic end products in the provision of the solicitation entitled “Buy American Act Certificate.”

(e) The contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled “Buy American Act Certificate.”

(f) Except as provided in subparagraph (2) immediately following, the contractor shall provide environmental, employers' liability, comprehensive general liability (bodily injury), comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Laboratory may require under this clause.

(2) The contractor may, with the approval of the Laboratory, maintain a self-insurance program; provided that, with respect to workers' compensation, the contractor is qualified pursuant to statutory authority.

(g) All insurance required by this paragraph shall be in a form and amount and for those classes of risks as the Laboratory may require or approve, and insurance shall be evidenced by a certificate or other appropriate evidence acceptable to the Laboratory.

(h) The contractor agrees to submit for the Laboratory's approval, to the extent and in the manner required by the Laboratory, any other insurance that is maintained by the contractor in connection with the performance of this contract and for which the contractor seeks reimbursement.

(i) The contractor shall be reimbursed—

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract and (ii) required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance of or by the contractor. The terms Limited to Limitations of Funds or Limitation of Cost of this contract. These liabilities may arise out of the performance of this contract, whether or not caused by the negligence of the contractor or of the contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Laboratory. These liabilities are for—

(i) Loss of or damage to property (other than property owned, occupied, or used by the contractor or by anyone acting under authority of the contractor, or in the care, custody, or control of the contractor); or

(ii) Bodily injury

(j) The Laboratory’s liability under this paragraph (c) of this clause is subject to the availability of funds under the Prime Contract between the Laboratory and the Department at the time a claim arises, or as otherwise provided by the Laboratory. If the Laboratory, at a later date, receive funds sufficient to meet deficiencies.

(k) The contractor shall not be reimbursed for liabilities (and expenses incidental to such liabilities)—

(1) For which the contractor is otherwise responsible under the express terms of any clause specified in the contract;

(2) For which the contractor has failed to insure or to maintain insurance as required by the Laboratory; or

(3) Result from willful misconduct or lack of good faith on the part of any one of the contractor's directors, officers, managers, superintendents, or other representatives who have supervision or control (i) All or substantially all of the contractor's business; (ii) All or substantially all of the contractor's operations at any one plant or separate location in connection with this contract; or (iii) A separate and complete major industrial operation in connection with the performance of this contract.

(l) The provisions of paragraph (e) of this clause shall not restrict the right of the contractor to be reimbursed for the cost of insurance maintained by the contractor in connection with the performance of this contract, other than insurance required in accordance with this clause; provided, that such cost is allowable under the Allowable Cost and Payment clause of this contract.

(m) If any suit or action is filed or any claim is made against the contractor, the cost and expense of which may be reimbursable to the contractor under this contract, and the risk of which is uninsured or not covered by insurance, the claim for less than the amount claimed, the contractor shall -

(1) Immediately notify the Laboratory and promptly furnish copies of all pertinent papers and records pertinent to the claim or suit;

(2) Authorize Laboratory or Government representatives in any such claim or litigation.

(n) The provision is the authority of Federal, State, and local governments, and the following terms are defined—

(i) “COTS item” (See 12.505(a)(1));

(2) Offerors may obtain a list of articles from the contractor that the Contracting Officer has or will supply for the contractor's use as domestic.

(3) The contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled “Buy American Act Certificate”.

(4) The contractor agrees to submit for the Laboratory's approval, to the extent and in the manner required by the Laboratory, any other insurance that is maintained by the contractor in connection with the performance of this contract and for which the contractor seeks reimbursement.

(5) The contractor shall be reimbursed—

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract and (ii) required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance of or by the contractor. The terms Limited to Limitations of Funds or Limitation of Cost of this contract. These liabilities may arise out of the performance of this contract, whether or not caused by the negligence of the contractor or of the contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Laboratory. These liabilities are for—

(i) Loss of or damage to property (other than property owned, occupied, or used by the contractor or by anyone acting under authority of the contractor, or in the care, custody, or control of the contractor); or

(ii) Bodily injury

(3) The contractor may, with the approval of the Laboratory, maintain a self-insurance program; provided that, with respect to workers' compensation, the contractor is qualified pursuant to statutory authority.

(4) All insurance required by this paragraph shall be in a form and amount and for those classes of risks as the Laboratory may require or approve, and insurance shall be evidenced by a certificate or other appropriate evidence acceptable to the Laboratory.

(5) The contractor agrees to submit for the Laboratory's approval, to the extent and in the manner required by the Laboratory, any other insurance that is maintained by the contractor in connection with the performance of this contract and for which the contractor seeks reimbursement.

(6) The contractor shall be reimbursed—

(1) For that portion (i) of the reasonable cost of insurance allocable to this contract and (ii) required or approved under this clause; and

(2) For certain liabilities (and expenses incidental to such liabilities) to third persons not compensated by insurance of or by the contractor. The terms Limited to Limitations of Funds or Limitation of Cost of this contract. These liabilities may arise out of the performance of this contract, whether or not caused by the negligence of the contractor or of the contractor's agents, servants, or employees, and must be represented by final judgments or settlements approved in writing by the Laboratory. These liabilities are for—

(i) Loss of or damage to property (other than property owned, occupied, or used by the contractor or by anyone acting under authority of the contractor, or in the care, custody, or control of the contractor); or

(ii) Bodily injury

(7) The provision is the authority of Federal, State, and local governments, and the following terms are defined—

(i) “COTS item” (See 12.505(a)(1));
46. STATE AND LOCAL TAXES (DEC 2000)

(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 charged to the contractor with respect to the contract work, in violation thereof the contractor or control of the contractor and constituting an allowable item of cost if due and payable, which the contractor has reasonably believe, or the Laboratory determines, as a result of its own investigation, to be invalid; and the contractor further agrees to refrain from paying any such tax, fee, or charge unless authorized in writing. Any State or local tax, fee, or charge paid with the approval of the Laboratory, or by the contractor, instead of the Laboratory, for the preservation, protection, or disposition of the termination inventory. If the Contractor shall fail to make such payments and the sums so paid, including interest, shall be allowable items of costs, as provided in this contract, together with the amount of any judgment rendered against the Contractor.

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

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

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

(1) The Laboratory Procurement Official determines that a termination in the Government's interest is necessary.

(2) The Contractor defaults in performance in any respect, including, directly or indirectly, the amount of any kickback in the contract price.

(b) The Laboratory shall give the Contractor written notice of termination specifying the default, the reason therefor, and the date when the Contractor shall be required to perform.

(c) On receipt of a Notice of Termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause—

(1) Stop work as specified in the notice.

(2) Perform and complete any work accomplished or ordered to be performed before the work terminated.

(3) Carry out performance of any work accomplished or ordered to be performed before the work terminated.

(4) Assign to the Government, as directed by the Laboratory Procurement Official, all right, title, and interest of the Contractor under the subcontracts terminated, in which event the Contractor shall cooperate with the Government and shall be paid for any and all work in accordance with the terms of this contract.

(5) Complete performance of the work not terminated.

(d) Take any action that may be necessary, or that the Laboratory Procurement Official may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has an interest.

(e) Use its best efforts to sell, as directed or authorized by the Laboratory Procurement Official, all property of the types referred to in paragraph (c)(6) of this clause, except as provided in this clause.

(f) The laboratory may, under the terms and conditions prescribed, deliver all unliquidated advance payments and payments against costs incurred by the Contractor in connection with work performed prior to the effective date of termination.

(g) The Contractor shall surrender to the Government all drawing, specifications, or other documents furnished or furnished to the Government; and employee, or agent of a prime Contractor.

(h) The Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or other materials or things acquired by the Contractor or sold under this clause and not recovered or credited to the price or cost of work, or paid in accordance with this clause.

(i) The provisions of this clause relating to fee are inapplicable if this contract does not include a fee.

47. ANTI-KICKBACK PROCEDURES (OCT 2010)

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

(a) Definitions.

(1) "Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, directly or indirectly, to any prime Contractor, prime Contractor employee, Subcontractor, or Subcontractor employee, for obtaining or retaining business, or for favoring treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

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

(3) "Prime Contract," as used in this clause, means a contract awarded to the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

(4) "Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

(5) "Subcontractor," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

(6) "Subcontract," as used in this clause, means a contract or subcontractual agreement entered into by the United States or written or otherwise entered into by a prime Contractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

(7) "Person," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

(8) "Subcontractor Employee," as used in this clause, means any officer, partner, employee, or agent of a Subcontractor.

(b) Prohibitions.

(1) The anti-kickback statute set forth in 18 U.S.C. 666(a)(2) (the Act), prohibits any person from—

(a) Providing or attempting to provide or offering to provide any kickback;

(b) Accepting or attempting to accept any kickback.

(c) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a Subcontractor to a prime Contractor or higher-tier Subcontractor.
(c) Definitions. As used in this clause—

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

(b) “Reciprocal compensation” means compensation that is consistent with the normal compensation for similar services in the private sector.

(c) “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 made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

“Reasonable payment” means, with respect to professional and other technical services, a payment—

1. That is reasonable in light of prevailing private sector rates in the area or for the type of service provided.

2. That is consistent with the amount normally paid for such services in the private sector.

“Reasonable” means, with respect to professional and other technical services, a payment that is reasonable in light of prevailing private sector rates in the area or for the type of service provided.

“Fair compensation” means, with respect to professional and other technical services, a payment that is reasonable in light of prevailing private sector rates in the area or for the type of service provided.

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

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure forms.

(f) Cost allocations: No other cost shall be unallowable by the requirements in this clause unless such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient non-Federal appropriated funds, the Contracting Officer shall approve payment for any unallowable or unreasonable costs that would otherwise be unallowable or unreasonable.

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

(a) Payment to or for the benefit of a Federal employee for expenses incurred by such person for 130 working days.

(b) Payment to or for the benefit of a Federal employee who is employed by such person for 130 working days.

(c) Payment to or for the benefit of a Federal employee who is employed by such person for 130 working days. Payment is for agency or service activities not directly related to this contract. For purposes of this paragraph, payment is for agency or service activities not directly related to this contract.

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

(1) Payment to or for the benefit of a Federal employee who is employed by such person for 130 working days.

(2) Payment to or for the benefit of a Federal employee who is employed by such person for 130 working days. Payment is for agency or service activities not directly related to this contract. For purposes of this paragraph, payment is for agency or service activities not directly related to this contract.

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

(1) Payment to or for the benefit of a Federal employee who is employed by such person for 130 working days.

(2) Payment to or for the benefit of a Federal employee who is employed by such person for 130 working days. Payment is for agency or service activities not directly related to this contract. For purposes of this paragraph, payment is for agency or service activities not directly related to this contract.
(a) The parties estimate that performance of this contract will not cost the Laboratory more than (1) the estimated cost specified in the Schedule, or (2) if this is a cost-sharing contract, the Laboratory's share of the estimated cost specified in the Schedule. The contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Laboratory's and the contractor's share of the estimated cost specified in the Schedule.

(b) If the contractor exceeds the estimated cost specified in the Schedule, the contractor shall notify the Laboratory in writing within 2 weeks, in amounts determined to be allowable by the Laboratory Procurement Official, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable costs. If the cost exceeds the estimated cost specified in the Schedule, the contractor shall include the amount of such excess in its request for reimbursement under Government contracts; and

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

(1) The Laboratory is not obligated to reimburse the contractor for costs incurred in excess of the amount allotted to the contract by the Laboratory or the contractor's corresponding share, shall be allowable to the extent that the costs were incurred during the course of the contract or as a result of termination.

(d) Invoicing.

(1) The Laboratory will make payments to the Contractor when requested by the Contractor and, except for small business concerns, not more than once every 30 days. The contractor is responsible for determining whether any costs incurred under the contract are allowable under a subcontract; and (2) A copy of each subcontract 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 by the subcontractor to the contractor, submit to the Laboratory a report including the number of disclosures submitted in that quarter.

(e) Reimbursing costs.

(1) For the purpose of reimbursing allowable costs (except as provided in (2) above, or from any person other than the Authorized Laboratory Procurement Official in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2, as supplemented by the Laboratory Acquisition Regulation (EAR) in effect on the date of this contract, and the terms of this contract. The Contractor may submit to an authorized representative of the Laboratory documentation that the costs are allowable in accordance with the terms of the contract and the terms of the contract.

(f) If the contractor incurs costs in excess of the estimated cost specified in the Schedule, the contractor shall notify in writing the authorized Laboratory Procurement Official (i) in the case of a cost-sharing contract or (ii) in the case of a cost-sharing contract, in accordance with the Federal Acquisition Regulation (FAR), the contractor's estimate of the costs it expects to incur under this contract in the ordinary course of business, costs, but not exceeding the total amount actually allotted by the Laboratory to the contractor.

(g) The contractor shall notify the authorized Laboratory Procurement Official in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount allotted to this contract; and

(h) If, upon notification, the contractor estimates that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the total amount allotted to this contract, the contractor shall notify the Laboratory in writing within 2 weeks, in amounts determined to be allowable by the Laboratory Procurement Official, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable costs. If the cost exceeds the estimated cost specified in the Schedule, the contractor shall include the amount of such excess in its request for reimbursement under Government contracts; and

(i) All claims are processed by the same office and in accordance with a specific claim handling process established by the Contractor for the purpose of obtaining reimbursement under Government contracts; and

(j) The contractor's practice is to make contributions to the retirement fund on behalf of its employees in accordance with the pension plan maintained by the Laboratory, and covered by the Labor Code of the State or the Federal Employee Retirement System and, whenever it has reason to believe that the contributions will be excessive or substantially in excess of the amount estimated to be required for the period covered by the indirect cost rate proposal.

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 its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Laboratory's and the contractor's share of the estimated cost specified in the Schedule.

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

(1) The costs the contractor expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of the estimated cost specified in the Schedule; or

(2) The total cost for the performance of this contract, exclusive of any fee, will be either greater or substantially less than had been previously estimated by the contractor.

(c) As part of the notification, the contractor shall provide the authorized Laboratory Procurement Official a revised estimate of the total cost of performing this contract.
(iii) An adequate indirect cost rate proposal shall include the following data unless otherwise specified by the Laboratory Procurement Official:

(A) Summary of all claimed indirect expense rates, including pool, base, and calculated indirect rate.

(B) General and Administrative expenses (final indirect cost pool).

(C) Overhead expenses (final indirect cost pool).

(D) Occupancy expenses (intermediate indirect cost pool).

(E) Claimed allocation bases, by element of cost, used to distribute indirect costs.

(F) Facilities capital cost of money factors computation.

(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 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.

(J) Contract information. Listing of subcontracts awarded to companies for which the contractor (i) is the prime contractor (include prime and subcontract numbers, subcontract value and award type; amount claimed during the fiscal year; and the subcontractor name, address, and point of contact information).

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

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

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

(N) Certificate of final indirect costs (see 22.242-4, Certification of Final Indirect Costs).

(O) Contract closing information for contracts physically completed in this fiscal year (include contract within five (5) days following the release of the final rates. The contractors shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for which the contractor has not been paid. This obligation remains in effect until final payment under this contract.

(P) Claim for reimbursement of costs, including reasonable incidental expenses, incurred in connection with the contractor's compliance with the patent indemnification requirement.

(Q) Certification that the contractor has been reimbursed by the Government under this contract.

(R) Reimbursement by the Government against patent liability.

45. BUCKRIDGE (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the contractor agrees to notify the Laboratory Procurement Official immediately of any information which the contractor is aware would affect the bankruptcy to the Laboratory Procurement Official responsible for administering the contract. This notification shall be made within five (5) days following issue of the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Laboratory contract numbers for which the contractor has not been paid. This obligation remains in effect until final payment under this contract.

46. RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or OFAC’s implementing regulations at Chapter 17, will prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its overseas areas. Lists of entities and individuals subject to economic sanctions are included in OFAC’s List of Special Designations and Blocked Persons at http://www.treasury.gov/office/enforcement/tdac/tdsn. More information about these restrictions, as well as OFAC’s regulations, can be found at CFR Chapter 17 and/or OFAC’s website at http://www.treasury.gov/office/enforcement/tdac.

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

47. PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) "Segregated facilities,” as used in this clause, means any waiting rooms, work areas, rest rooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin (or any combination of the above) because of a discriminatory practice. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform the work of this contract in segregated facilities.

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

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

(a) Accounts. The Contractor shall maintain a separate and distinct set of accounts, records, documents, and other evidence showing and supporting all allowable costs incurred; collections accruing to the Contractor in connection with the work under this contract, other applicable credits, refunds, set-offs, and limitations; and the receipt, use, and disposition of all Government property coming into the possession of the Contractor under this contract.

(b) Audit of contractors records. The Contractor also agrees, with respect to any subcontracts (including fixed-price or unit-price subcontracts or purchase orders) where, under the terms of the subcontract, costs incurred are a factor in determining the amount
payable to the subcontractor of any tier, to either conduct an audit of the subcontractor or to arrange for such an audit to be performed by the cognizant government agency through the Contracting Officer.

d. Determination of financial issues. Except as agreed upon by the Government and the Contractor, all financial and cost reports, books of account and supporting documents, system files, data bases, and other data evidencing costs allowable, collections accruing to the Contractor in connection with the work under this contract, or the contractor's accountable credits, and all records under this contract, shall be the property of the Government, and shall be delivered to the Government or its disseeses on the date and at such time as the Government may from time to time direct during the progress of the work or, in any event, as the Contracting Officer shall direct upon completion or termination of this contract and final audit of such records, if any. contractor may from time to time decay of the contract or final audit of such records, if any, deliver to the Government or its disseeses under this contract, or deliver to the Government or its disseeses, as the Government may direct, such records or other data evidencing costs incurred as a factor in determining the amount payable to the subcontractor.

e. Records. The contractor shall further submit subsequent reports and schedules, financial and cost reports, and other reports concerning the work under this contract as the Contracting Officer may from time to time require.

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

g. Subcontracts. The Contractor further agrees to require the contractor to include in any of those in paragraphs (a) through (g) and paragraph (h) of this clause in all subcontracts (including off-price, unit-price or unit-price subcontracts) of any tier, any of the categories of records or data specified and, hereunder where, under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor.

h. Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause. (The Contractor Procurement Representative shall identify which of the following categories of records will be included in the clause.)

(1) Employment-related records (such as worker’s compensation files; employee relations records, records on salary and employee benefits; drug testing records; labor negotiation records; records on ethics, employee concerns; records generated during the course of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality (employee records, and personal and medical/health-related records and similar files), and non-employee patient medical/health-related records, except for those records described by the contractor as being maintained in Privacy Act systems of records.

(70 FR 37010 Jun. 28, 2005)

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

(3) Records relating to any profits or cost savings of the contractor, except for records that under 48 CFR 79.522-3.3, Accounts, Records, and Inspection, are described as the property of the Government; and

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

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

(i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.

(ii) The contractor’s protected Cooperative Research and Development Agreement (CRADA) records, including records of intellectual property that are transferred to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.

(iii) Patent, copyright, mask work, and trademark application files and related contractor inventions or improvements, and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights to the holder of the invention.

(iv) The contractor’s protection of records involved in a contract or a subcontract. The contractor shall deliver such records to the government, if the contractor has elected rights or has permission to assert rights and has not relinquished such rights to the holder of the invention.

(v) Records relating to a commercial item (as defined in paragraph (1) of the definition in FAR 2.101).

(vi) Preventive maintenance or unscheduled repairs and service work that is not performed for the contractor pursuant to a contract; and

(vii) Records relating to any profits or cost savings of the contractor, and records not specifically covered by paragraphs (1) through (vii) above.

(i) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and

(ii) Offered to the Government, under a contract or subcontract at any tier, for any purpose, without modification, in the same form in which it is offered to the Government. This clause shall be included in any subcontract at any tier, without modification, in the same form in which it is offered to the Government.

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

(3) The Government suspends or debars Contractors to protect the Government’s interests.

61. COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause—

“Coercion” means—

(1) Threats of serious harm to or physical restraint against any person; (2) Any scheme, pattern or practice of the kind that the contractor believes will result in such a person failing to perform an act that such person has a legal duty to perform; or, in the case of a subcontractor, will result in failure to perform an act that such person has been induced to perform by such contractor.

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person for the purpose of providing the services of the person to engage in any sexually explicit commercial activity.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor or any other person of the debtor’s services in order to secure a debt, when the pecuniary value of such services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively determined by the debtor or another person.

“Employee” means any employee of the contractor engaged in the performance of work for which the contractor has an interest in the performance of that work, including employees of subcontractors.

“Excluded Parties List System.” The notice must include the following:

(1) The name of the party to be included in the Excluded Parties List System.

(2) The Contractor’s knowledge of the reasons for the contractor being in the Excluded Parties List System.

(3) The compelling reason for doing business with the contractor notwithstanding its inclusion in the Excluded Parties List System.

(b) Systems and procedures must be established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the specific basis of the party’s debarment, suspension, or proposed debarment.

(c) The contractor shall include the requirements of this clause, including this paragraph (e), in each subcontract that—

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

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

59. 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 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 involving work performed on behalf of DOE directly related to activities at DOE-owned or -leased sites.

50. PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (DEC 2010)

(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 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 involving work performed on behalf of DOE directly related to activities at DOE-owned or -leased sites.

58. ACCESS TO AND OWNERSHIP OF RECORDS (JUL 2005)

(a) Laboratory-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract shall be the property of the Laboratory shall be delivered to the Laboratory or otherwise disposed of by the contractor either as the Laboratory Procurement Representative may from time to time direct during the progress of the work or, in any event, as the Laboratory Procurement Representative may from time to time direct.

(b) Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause. (The contractor exercises its right under paragraph (c) of this clause to obtain copies and deliver to the Laboratory or its designees for inspection, copying, and audit. The Laboratory or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.

(c) Contract completion or termination. In the event of completion or termination of this contract, copies of any of the contractor-owned records identified in paragraph (b) of this clause, upon the request of the Laboratory, shall be delivered to the Laboratory or its designees, including successor contractors. Upon delivery, title to such records shall vest in the Laboratory or its designees, as applicable, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act), as appropriate.

(d) Inspection, copying, and audit of records. All records acquired or generated by the contractor under this contract in the possession of the contractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by the Laboratory, its designees or any of its affiliates. The contractor shall deliver such records to the Laboratory or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the Laboratory Procurement Representative, the contractor shall deliver such records to a location specified by the Laboratory Procurement Representative for inspection, copying, and audit. The Laboratory or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.

(e) Applicability. Paragraphs (b), (c), and (d) of this clause apply to all records without regard to the date of origination of such records.

(f) Records retention standards. Special records retention standards, described at DOE Order 472.1, Information Management, apply to records in effect on an effective date of contract, are applicable for the classes of records described therein, whether or not the records are owned by the Laboratory or the contractor. In addition, the contractor shall retain individual radiation exposure reports generated in connection with the performance of the contract until the Laboratory authorizes disposal. The Laboratory may waive application of this clause, with respect to any records described in paragraph (c) of this clause, if the contractor is unable to comply with the applicable federal laws (including the Privacy Act), as appropriate.

(g) Subcontracts. The contractor shall include the requirements of this clause in all subcontracts that are of a cost-reimbursement type if any of the following factors is present:

(1) The value of the subcontract is greater than $2 million (unless specifically waived by the Laboratory Procurement Representative);

(2) The Laboratory Procurement Representative determines that the subcontract is, or involves, a critical task related to the contract; or

(h) applies to records in effect on an effective date of contract, are applicable for the classes of records described therein, whether or not the records are owned by the Laboratory or the contractor. In addition, the contractor shall retain individual radiation exposure reports generated in connection with the performance of the contract until the Laboratory authorizes disposal. The Laboratory may waive application of this clause, with respect to any records described in paragraph (c) of this clause, if the contractor is unable to comply with the applicable federal laws (including the Privacy Act), as appropriate.

(iii) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and

(iv) Offered to the Government, under a contract or subcontract at any tier, for any purpose, without modification, in the same form in which it is offered to the Government. This clause shall be included in any subcontract at any tier, without modification, in the same form in which it is offered to the Government.
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 by this clause, and the conduct of inquiries, 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 insufficient evidence to proceed to an investigation, it must notify the contracting officer and, unless otherwise instructed, the contractor must:

1. Conduct an investigation to develop a complete factual record and an examination of such record to determine whether there is a finding of research misconduct. The contractor may either make findings of research misconduct, adopt corrective actions, or determine that there is not sufficient evidence to proceed with an investigation. An investigation is required on any allegation of research misconduct by a responsible official who was not involved in the inquiry or investigation and is separated organizationally from the element which conducted the investigation. The adjudication process must include a review of the investigative record and, as warranted, an independent determination of appropriate corrective actions and sanctions.

2. In the event of an initial inquiry, and if requested by the contracting officer, a copy of the evidentiary record and the investigative report, any recommendations made to the contractor's adjudicating official, the adjudicating official's decision and notification of 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 into an allegation of research misconduct. The Secretary of Energy may determine that a Security Official, as defined in DOE Order 473.3C, has been given responsibilities that would preclude the contractor from performing an inquiry and, if requested and if, in the opinion of the Security Official, the inquiry is considered sufficiently important, the Secretary of Energy shall contract with the DOE to perform the inquiry and, if requested, the contractor will forward to the contracting officer a copy of the evidentiary record leading to either a finding of research misconduct and an identification of the specific action that resulted in the research misconduct or an initial determination that there is insufficient evidence to proceed to an investigation.

(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 making allegations of research misconduct made in good faith to the attention of the contractor without suffering retribution.

2. Confidentiality. To the extent possible, consistent with fair and thorough processing of allegations of research misconduct, the contractor shall protect the identity of the subjects of allegations and informants.

3. Timelessness. The contractor shall coordinate, inquire, investigate, and adjudicate allegations of research misconduct with due speed, but by thoroughness. Generally, an investigation should be completed within 120 days of initiation, and adjudication should be completed within 90 days of completion of the record of investigation.

4. Confidentiality. To the extent possible, consistent with fair and thorough processing of allegations of research misconduct and applicable law and regulation, knowledge about the identity of the subjects of allegations must be restricted to those with a need to know.

5. Remediation and Sanction. If the contractor finds that research misconduct has occurred, it shall assess the seriousness of the misconduct and its impact on the research completed or in progress. The contractor must take all necessary corrective actions. Such actions may include but are limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in progress or to be conducted in the future. The contractor must coordinate remedial actions with the LPO. The contractor must also consider whether personnel sanctions are appropriate. Any such sanction must be considered and effected consistent with any applicable personnel laws, policies, and procedures, and shall be based on whether there is isolated event or pattern of conduct.

(e) The Laboratory reserves the right to pursue such remedies and other actions as it deems appropriate, consistent with the terms of this clause and subject to any applicable laws and regulations. However, the contractor's good faith administration of this clause will not preclude the Laboratory from taking such action if it finds that the effectiveness of its remedial and/or investigative actions 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 and its outcome and any applicable appeal procedures.

(f) Definitions.

1. “Adjudication” means a formal review of a record of investigation of alleged research misconduct to determine whether and how corrective actions and sanctions should be taken.

2. “Fabrication” means making up data or results and recording or reporting them.

3. “Falsification” means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

4. “Finding of Research Misconduct” means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant departure from accepted practices of the relevant research community and that it has harmed the research or its practice.

5. “Inquiry” means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation. “Investigation” means the formal examination and evaluation of the relevant facts.

6. “Plagiarism” means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

7. “Research” means all basic, applied, and demonstration research in all fields of science, mathematics, engineering, technology, agriculture, computer science, economics, education, linguistics, medicine, psychology, social sciences statistics, and research involving human subjects or animals.

8. “Research Misconduct” means fabricating, falsifying, or plagiarizing in proposing, performing, or reviewing research, or in reporting research results, but does not include honest error or different interpretation.

9. “Research record” means the record of all data or results that embody the facts resulting from scientists' inquiries, including, but not limited to, research proposals, laboratory records, publications, presentations, internal reports, and journal articles.

10. “Sanction” means any action of the outcome and any applicable appeal procedures.

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

Site Access

Site access, including cyber access utilizing a Laboratory account, by all non-U.S. citizens must be reviewed and approved by the Laboratory Director or his designee. All new requests must be completed using site access form ANL-959. The form must be completed by the requesting individual, all references to personnel, all supporting documentation, and the Laboratory shall complete an initial review of the request. The Laboratory will forward the request to the Office to Monitor and Combat Trafficking in Persons at http://www.state.gov/g/tip.

(a) To the extent possible, consistent with fair and thorough processing of allegations of research misconduct, the contractor must take into account the seriousness of the misconduct and its impact, whether it was intentional or not, on the contractor's particular research effort.

(b) The contractor must invest or have invested the substance of this clause, including paragraph (g), in all subcontracts.

(c) By executing this contract, the contractor certifies that it has established an administrative process for performing an inquiry, mediating if possible, or investigating and reporting allegations of research misconduct; and that it will comply with its own administrative process and the requirements of 3 CFR part 723 for performing an inquiry, possible mediation, investigation and reporting of research misconduct.

64. EXPORT LICENSE AGREEMENT (AUG 2003)

The contractor understands that the materials and/or information being transmitted under the provisions of this contract, regardless of whether provided by U.S. Government or otherwise, are subject to U.S. export control regulations regarding export or re-export. This includes deemed exports which are any communication of technical data to a foreign national, whether it takes place in the United States or abroad. Technical information (data) provided to a foreign national verbally, by mail, by telephone or facsimile, through visits or workshops, or through computer networking is an export. If a foreign national observes equipment or sees models, diagrams, notes, or other information created by a DOE employee, this is also an export. Only if the foreign national is a U.S. Government End User and the export is for the exclusive benefit of the U.S. Government does it fall under the Commerce Control List (CCL) and requires an export license prior to your trip. Presentations and discussions must be limited to those topics that are not on the DOE Sensitive Subjects List and the Argonne Sensitive Technologies and are not related to controlled technologies in the National Defense Industrial Association (NDIA), any other classified information, or additional details, may be considered an export of technologies and need an export license prior to release.
66. **CONFLICTS IN DOCUMENTATION (MAY 2001)**

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

67. **RIGHTS TO PROPOSAL DATA (AUGUST 2001)**

It is agreed that, as a condition of the award of this contract, and notwithstanding the provisions of any notice 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.

68. **ENVIRONMENTAL PROTECTION (MAY 2001)**

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

69. **LIMITATIONS PERIOD (MAY 2001)**

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract must be identified in writing to the Laboratory Procurement Official. Such written notification must be received by the Laboratory Procurement Official within two (2) years (unless an earlier period is stated elsewhere in the contract) after the completion of work under the contract or after the cause of action has arisen, whichever occurs first, otherwise the contractor shall be barred from pursuing such action.

70. **VEHICLE LIABILITY INSURANCE COVERAGE (AUGUST 2001)**

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

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

(a) Definitions. As used in this clause—

"Driving"—

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

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

"Text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, emailing, instant messaging, obtaining navigational information, or engaging in any other form of 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 folder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

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

(c) The Contractor is encouraged to—

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

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

(ii) Privately-owned vehicles when 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 to prohibit text messaging while driving; and

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

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

72. **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.

73. **TECHNICAL STANDARDS PROGRAM (FEB 2011)**

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

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

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

   (A) 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.

   (B) Designate and provide support for a coordinator for technical standards activities, and selecting technical standards for use to support assigned DOE missions and international.)

   (C) Participate 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.

   (D) Designate and provide support for a coordinator for technical standards activities, and selecting technical standards for use to support assigned DOE missions and international.)

   (E) Participate 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.

   (F) Designate and provide support for a coordinator for technical standards activities, and selecting technical standards for use to support assigned DOE missions and international.)

   (G) Participate 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.

   (H) Designate and provide support for a coordinator for technical standards activities, and selecting technical standards for use to support assigned DOE missions and international.)

   (I) Participate 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.

   (J) Designate and provide support for a coordinator for technical standards activities, and selecting technical standards for use to support assigned DOE missions and international.)

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

74. **SUPECT 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.
ATTACHMENT 1 TO SUSPECT/COUNTERFEIT PARTS CLAUSE

SUSPECT/COUNTERFEIT PART

HEADMARK LIST

ALL GRADE 5 AND GRADE 8 FASTENERS OF FOREIGN ORIGIN WHICH DO NOT BEAR ANY MANUFACTURERS’ HEADMARKS

Grade 5
Grade 8

GRADE 5 FASTENERS WITH THE FOLLOWING MANUFACTURERS’ HEADMARKS:

J Jinn Her (TW)
KS Kosaka Kogyo (JP)

GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS’ HEADMARKS:

MARK MANUFACTURER MARK MANUFACTURER
A Asahi Mfg. (JP) KS Kosaka Kogyo (JP)
NF Nippon Fasteners (JP) RT Takai Ltd (JP)
H Hinomoto Metal (JP) FM Fastener Co of Japan (JP)
M Minamida Sieybo (JP) KY Kyoei Mfg (JP)
MS Minato Kogyo (JP) J Jinn Her (TW)
Hollow Triangle Infasco (CA TW JP YU) (Greater than 1/2 inch dia)
E Dalei (JP) UNY UNY Unytite (JP)

GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:

MARK MANUFACTURER
KS Kosaka Kogyo (JP)

GRADE A325 FASTENERS (BENNETT DENVER TARGET ONLY) WITH THE FOLLOWING HEADMARKS:

MARK MANUFACTURER
Type 1 A325 KS Kosaka Kogyo (JP)
Type 2 A325 KS
Type 3 A325 KS

Headmarkings are usually raised – sometimes indented.

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

ANY BOLT ON THIS LIST SHOULD BE TREATED AS DEFECTIVE WITHOUT FURTHER TESTING.
OR, IF YOU SEE ANY INDICATION THAT A CIRCUIT BREAKER MAY BE USED OR REFURBISHED SEE:  http://www.saftek.com/worksafe/bull82.txt