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 Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), or (2) who has also met the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (iii) 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) Contract with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the contractor agrees that it will provide 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. 403 expected to exceed $500,000).

2. COVENANT AGAINST CONTINGENT FEES (MAY 2014)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, 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 or 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 solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

(d) "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 contract with the Government.

(e) "Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration 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) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission for the necessary forms.

(c) As of the end of any pay period between July 1 and August 31 of the year the report is due, or

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

(e) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor's knowledge of veteran status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for noncompliance with 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 declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedial measures required 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.

(f) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including: (i) prohibiting the Contractor or subcontractor from obtaining, or allowing the Contractor or subcontractor to remain, any new contract with the Government, (ii) requiring the Contractor or subcontractor to pay damages, (iii) requiring the Contractor or subcontractor to guarantee the performance of Government contracts, (iv) requiring the Contractor or subcontractor to take affirmative action to employ persons who are not members of any one of the protected classes, (v) requiring the Contractor or subcontractor to take affirmative action to employ and advance in employment qualified individuals with disabilities, (vi) requiring the Contractor or subcontractor to provide reports and other information as necessary to determine the applicability of the requirements of this clause, (vii) requiring the Contractor or subcontractor to take affirmative action to employ and advance in employment qualified individuals with disabilities, (viii) requiring the Contractor or subcontractor to provide reports and other information as necessary to determine the applicability of the requirements of this clause, (ix) requiring the Contractor or subcontractor to provide reports and other information as necessary to determine the applicability of the requirements of this clause, (x) requiring the Contractor or subcontractor to provide reports and other information as necessary to determine the applicability of the requirements of this clause, (xi) requiring the Contractor or subcontractor to provide reports and other information as necessary to determine the applicability of the requirements of this clause, and (xii) requiring the Contractor or subcontractor to provide reports and other information as necessary to determine the applicability of the requirements of this clause.

(g) The Contractor shall include 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 (JULY 2014)

(a) Definitions. As used in this clause—

(1) "Active duty wartime or campaign badge veteran," "protected veteran," "active duty wartime or campaign badge veteran," and "recently separated veteran" have the meanings given in FAR 22.1301.

(b) The Contractor shall report at least annually, as required by the Director, Office of Federal Contract Compliance Programs (OFCCP), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

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

6. EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JULY 2014)

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.
of the Employer Rights under the NLRA to organize and bargain collectively with their employers and to engage in other protected concerted activity. Additionally, the notice provides examples of illegal conduct by employers and unions, and it provides contact information to the National Labor Relations Board (NLRB). The notice is prescribed in the Department of Labor’s regulations, informs employees of Federal contractors and subcontractors of their rights under the NLRA to organize and bargain collectively with their employers and to engage in other protected concerted activity. Additionally, the notice provides examples of illegal conduct by employers and unions, and it provides contact information to the National Labor Relations Board (NLRB).

Exhibit Order 13496 Notice of Employee Rights, in Adobe Reader (.pdf) format, can be downloaded from the link:
http://www.dol.gov/olms/regs/compliance/EO13496.htm

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and 471.14 and subpart 9.4.

(b) (1) The required text of the employee notice referred to in this clause is located at Appendix A.

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

(d) The Contractor shall include the requirements of this clause, including this paragraph (e), in each subcontract.

(e) The Contractor shall include the requirements of this clause, including this paragraph (e), in each subcontract.

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(zzz) The Contractor shall include the requirements of this clause, including this paragraph (e), in each subcontract.
(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor.
(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, or other related activities, and selection for leaves of absence to pursue training.
(viii) Activities sponsored by the Contractor, including social or recreational programs.
(ix) Any other term, condition, or privilege of employment.
(3) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings.
(1) The Contractor agrees to post employment notices stating -- (i) the Contractor’s obligation under the law to act upon applications of employment qualified individuals with disabilities; and (ii) the rights of applicants and employees.
(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed, for example, that: (a) the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair; (b) the notices shall be in a form prescribed by the Deputy Assistant Secretary for Compliance of the U.S. Department of Labor (Deputy Assistant Secretary), and shall be provided by or through the Contractor’s Employment Office.
(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Rehabilitation Act to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.
(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.
(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of $15,000 unless exempted by rules, regulations, or orders of the Deputy Assistant Secretary.
(e) The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

11. INFORMATION TECHNOLOGY ACQUISITIONS (MARCH 2009)
All information technology acquired under this Agreement shall include the appropriate information technology security policies and requirements, including use of common security configurations available from the National Institute of Standards and Technology website at http://csrc.nist.gov.

12. SECURITY (OCT 2013) (DEVIATION)
Responsibility. It is the Contractor's duty to protect all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for protecting all classified information and all classified matter (including documents, materials and special nuclear material) which are in the Contractor's possession in connection with work under this contract, its control, or in the possession, control, or in the possession of any other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, and to prevent unauthorized disclosure of such information or matter. The Contractor shall have the responsibility to prevent unauthorized disclosure of any classified matter or special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with work under this contract. If retention of information or matter of classified content or other classified information or matter, or special nuclear material is required, the Contractor shall maintain all classified matter or classified information and special nuclear material, or other DOE property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, and to prevent unauthorized disclosure of such information or matter.

(a) The Contractor shall act as specified by the DOE Contracting Officer. When this clause is included in a subcontract, the requirements of this clause shall be substantially similar to the language of this clause, including this paragraph, in all subcontracts under its contract that will require Subcontractor employees to possess in writing to protect any classified information or special nuclear material.
(b) The Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to protect any classified information or special nuclear material.
(c) The Contractor shall terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contractor may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance default or influence problem.
(d) The Contractor may terminate this contract for default either if the Contractor fails to meet obligations imposed by this clause or if the Contractor creates a foreign ownership, control, or influence situation in order to avoid performance or a termination for default. The Contractor may terminate this contract for convenience if the Contractor becomes subject to foreign ownership, control, or influence and for reasons other than avoidance of performance default or influence problem.
(e) Employment announcements. When placing announcements seeking applicants for positions requiring access authorization, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that positions requiring access authorization will not be filled until the employment application has been cleared by the appropriate DOE security clearance office. Employment announcements will specify the job title, the duties of the position, the education and experience or other qualifications that are necessary to perform the job, the pay range, and the application procedures.
(f) The Contractor shall submit applications, security clearance requests, and security clearance authorization letters for review and approval in accordance with the requirements of the Office of the General Counsel, the Office of the Deputy Assistant Secretary, and the Office of the General Counsel, as applicable.
(g) The Contractor shall not use any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or special nuclear material to which access is required.
(h) The Contractor shall conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(i) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
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(n) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(o) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(p) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(q) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(r) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(s) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(t) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(u) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(v) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(w) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(x) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(y) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
(z) The Contractor must conduct a thorough background check, as defined at 48 CFR 990.401, of an unclassified applicant or unclassified employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
13. CLASSIFICATION/DECLASSIFICATION (SEP 1997)

In the performance of work under this contract, the contractor or subcontractor shall comply with all provisions of the Department of Energy’s regulations and mandatory DOE directives which apply to work involving the classification and declassification of information, documents, or material. In this section, “information” means facts, data, or knowledge; itself; “document” means the physical material in which information is recorded; and “material” means a product or substance which contains or reveals information, regardless of its physical form or characteristics. Classified information is “Restricted Data” and “Formerly Restricted Data” (classified under the Atomic Energy Act of 1946, as amended) and the “National Security Information” (classified under Executive Order 11652, as amended). The original decision to classify or declassify information is considered an inherently Government function. For this reason, only Government personnel may serve as original classifiers, i.e., Federal Government Original Classifiers. Other personnel (Government or contractor) may serve as deriving classifiers which makes decisions based upon a specific guidance which reflects decisions made by Federal Government Original Classifiers. The contractor or subcontractor shall ensure that any document or material that may contain classified information is reviewed to determine whether it contains classified information prior to dissemination. For information which is not classified, the classification/declassification process seen as a means of reviewing the data. 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 directives and classification/classification guidance furnished to the contractor by the Department of Energy to determine if the documents no longer appropriately classified. Priorities for declassification review of classified documents shall be based on the degree of public and researcher interest and the likelihood of public release. Documents which no longer contain classified information are to be declassified. Declassified documents then shall be reviewed to determine if they are publicly releasable. Documents which are not releasable are to be made available to the public in order to maximize the public’s access to as much Government information as possible while minimizing security costs.

14. 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.).

(b) “Clean air standards,” as used in this clause, include—

(1) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise applicable to Order 11280.

(2) An applicable implementation plan as described in section 110(d) of the Air Act (42 U.S.C. 7410(d)).

(c) “Clean water standards,” as used in this clause, mean any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency; or by a State following an approved program, as referenced in section 402 of the Water Act (42 U.S.C. 1342), or by local government to ensure compliance with pretreatment regulations as required by section 307 of the Water Act (33 U.S.C. 1337).

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

(a) Definition. As used in this clause—

“Energy-efficient product” means—

(1) A product that—

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label.

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Energy Star Program.

(b) The term “product” does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

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

(1) Delivered;

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

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

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

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

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

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

(e) Information about these products is available for—

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

(2) FEMP at http://www1.energystar.gov/retrofit/energyrequiments.html.

16. TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

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

(b) Unless otherwise specified, the Contractor 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 Report (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. 11023(a) and (g)), and section 6057 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(c) A contractor-held waiver for 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 use any toxic chemicals and is in compliance with 40 CFR Part 722;

(2) The facility does not have 10 or more full-time employees as specified in 40 CFR Part 722;

(3) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate reporting thresholds at 40 CFR Part 722); or

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

(i) Major group code 10 (except 1011, 1081, and 1094).

(ii) Major group code 20 through 39.

(iii) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(iv) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), or 5169, 5171, 7389 (limited to facilities primarily engaged in solvent recovery services).

(d) The Contractor or facility shall—

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

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

(e) For acquisition of commercial items as defined in FAR Part 2, the Contractor shall—

(1) Obtain a competitive subcontract agreements to exceed $100,000 (including all options), include a solicitation provision substantially as the same as the provision at FAR 52.223-14, “Toxic Chemical Reporting,” in the request for proposal, and act in accordance with paragraphs (a) and (b) of this clause, and after award of the contract circumstances change so that any of its operated or facilities used in the performance of this contract is no longer exempt—

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

(ii) The Contractor, as owner or operator of a facility used in the performance of this contract that is not longer exempt.

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

(1) For competitive subcontracts expected to exceed $100,000 (including all options), include a solicitation provision substantially as the same as the provision at FAR 52.223-14, “Toxic Chemical Reporting,” in the request for proposal, and;

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

17. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

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

(1) Radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1946, as amended, as set forth in Title 10 of the United States Code, 42 U.S.C. 8259a, in the performance of this contract.

(2) Other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries.

Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards of handling the material. The Contractor shall file, for each facility subject to the requirements of the Federal Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(f)), and section 6057 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) The Laboratory Procurement Representative may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and other applicable requirements of the PPA.

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

(1) For competitive subcontracts expected to exceed $100,000 (including all options), include a solicitation provision substantially as the same as the provision at FAR 52.223-14, “Toxic Chemical Reporting,” in the request for proposal, and;

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

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

(a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were—

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

(2) Delivered by a third-tier subcontractor under a cost-reimbursement subcontract.

(b) Cost-reimbursement Contractors shall provide and subcontract those bills of lading with freight shipping charges on or for which $200 below $200 shall be retained on-site by the Contractor and made available for on-site audits. This exception applies except freight shipments drugs and is not intended to apply to bills of lading for other transportation services.

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

The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were—

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

(2) Delivered by a third-tier subcontractor under a cost-reimbursement subcontract.

(b) Cost-reimbursement Contractors shall provide and subcontract those bills of lading with freight shipping charges on or for which $200 below $200 shall be retained on-site by the Contractor and made available for on-site audits. This exception applies except freight shipments drugs and is not intended to apply to bills of lading for other transportation services.

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

To be filed in by Laboratory Procurement Representative.
19. PREFERENCE FOR U.S. FLAG AIR CARRIERS (JUN 2003)

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

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118(Fly America Act)) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured abroad a foreign-air carrier if a U.S.-flag air carrier is available to provide such services.

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

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

STATEMENT OF UNAVAILABILITY OF U.S. FLAG AIR CARRIERS. International air transportation of personnel (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see Section 47.403 of the Federal Acquisition Regulation): [State reasons]

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

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

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

(1) Acquired for a U.S. Government account;
(2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
(3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currency;
(4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) when declaring any equipment, materials, or commodities under the conditions set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c) (1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both—

(A) The Office of Cargo Preference
Maritime Administration (MAR-590)
400 Seventh Street, SW
Washington, DC 20590

(B) The [State reasons]:

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

(i) This contract is—

(A) A construction contract; or
(B) A construction contract that involves—

(A) A foreign transaction;
(B) A purchase of a non-U.S. product; or
(C) A non-U.S. United Nation mission or embassy

(3) Shipments of classified supplies when the classification prohibits the use of non-U.S. flag air carriers.

(d) Each bill of lading copy shall contain the following information:

(A) Sponsoring U.S. Government agency.
(B) Name of vessel.
(C) Vessel flag of registry.
(D) Date of loading.
(E) Port of loading.
(F) Port of final discharge.
(G) Description of commodity.
(H) Gross weight in pounds and cubic feet if available.
(I) Total ocean freight revenue in U.S. dollars.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).

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

(1) Cargoes carried in vessels or as required or authorized by law or treaty;
(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from earnings available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2333);
(3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and
(4) Subcontracts or purchase orders for the acquisition of commercial items unless—

(i) The Contractor is—

(A) A contract or agreement for ocean transportation services; or
(B) A construction contract that involves—

(A) A foreign transaction;
(B) A purchase of a non-U.S. product; or
(C) A non-U.S. government mission or embassy

(ii) The supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value; (Generally, the Contractor does not add value to the items when it subcontractors are used for f.o.b. destination shipment); or
(B) Shipped in direct support of a U.S. military operation—

(1) Contingency operations;
(2) Exterors;
(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations;

(iii) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from—

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-366-3234

21. 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.

22. SMALL BUSINESS SUBCONTRACTING CONTRACT (JAN 2011)

This clause does not apply to small business concerns

a. Definitions. As used in this clause—


(2) "Small business concern" means any business concern that is independently owned and operated. The concern must be at least 50 percent owned by one or more individuals who are members of any of the following groups:

(A) Black and/or African Americans;
(B) American Indians, Eskimos, Aleuts, and other members of Alaska Native groups; and
(C) Members of other minority groups that meet the standards for minority concerns set forth in 43 U.S.C. 1626(e).

(3) "Socially disadvantaged minority business concern" means any small business concern that is socially disadvantaged.

(4) "Service-disabled veteran-owned small business concern" means any small business concern owned and managed by one or more service-disabled veteran(s).

(5) "Veteran-owned small business concern" means any small business concern owned and managed by one or more veterans.

(6) "Small business concern" means a concern that is, when considering

(i) The Contractor, and

(ii) The prime Contractor, and the ANC or Indian tribe shall—

A. In most cases, the appropriate Contractor is the Contractor that is closest in accordance with 43 U.S.C. 1626:

(i) This contract is—

(A) A construction contract; or
(B) A construction contract that involves—

(A) A foreign transaction;
(B) A purchase of a non-U.S. product; or
(C) A non-U.S. government mission or embassy

(ii) The supplies being transported are—

(A) Items the Contractor is reselling or distributing to the Government without adding value; (Generally, the Contractor does not add value to the items when it subcontractors are used for f.o.b. destination shipment); or
(B) Shipped in direct support of a U.S. military operation—

(1) Contingency operations;
(2) Exterors;
(3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations;

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

(b) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting obligations for small and disadvantaged business concerns (SBDCs). Small disadvantaged business concerns (SDBs) are included in the definition of disadvantaged business concerns. The ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(c) The ANC or Indian tribe shall give a copy of the written designation to the prime Contractor and the subcontractors. Contractors shall give written designation to the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

D. If the Contracting Officer does not receive a copy of the ANC’s or the Indian tribe’s written designation within 30 days of the subcontract award, the Contractor shall reduce the subcontract award to the ANC or Indian tribe.

2. A statement of—

(i) Total dollars planned to be subcontracted for an individual contract plan; or
(ii) The total projected sales, expressed in dollars, and the total value of projected subcontract awards to support the sales for a specific contract period.

(iii) Total dollars planned to be subcontracted to small business concerns.

(iv) Total dollars planned to be subcontracted to veteran-owned small business concerns.

(v) Total dollars planned to be subcontracted to small disadvantaged business concerns.

(vi) Total dollars planned to be subcontracted to HubZone small business concerns.

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

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

(i) Small business concerns;
(ii) Veteran-owned small business concerns;
(iii) Service-disabled veteran-owned small business concerns;
(iv) HubZone small business concerns;
(v) Small disadvantaged business concerns, and
Women-owned small business concerns.

4. A description of the method used to develop the subcontracting goals in paragraph (b)(1) of this clause.
5. A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the System for Award Management (SAM), veteran service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as a small business concern’s size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small business, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publishing subcontracting opportunities) to small, veteran-owned small, service-disabled veteran-owned small business, HUBZone small, small disadvantaged, and women-owned small businesses.

6. A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals and a description of the method used to determine the proportionate share of indirect costs to be incurred with –
   a. Small business concerns (including ANC and Indian tribes);
   b. Veteran-owned small businesses;
   c. Service-disabled veteran-owned small businesses;
   d. HUBZone small businesses; small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

9. Assurances that the offeror will include the clause of this contract entitled “Utilization Of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business and women-owned small business concerns) that receive subcontract awards in excess of $150,000 to—
   i. Cooperate in any studies or surveys as may be required;
   ii. Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
   iii. Submit the Individual Subcontractor Report (ISR) and/or the Summary Subcontract Report (SSR) in accordance with the paragraph (f) of this clause using the Electronic Subcontracting Reporting System (eSRS) at http://www.esrs.gov. The report shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes) that are not 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.

10. 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.

11. A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing and maintaining records on the efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and the Small Business Administration.”

12. Records on subcontract solicitation resulting in an award of more than $150,000, including—
   a. Whether small business concerns were solicited and if not, why not;
   b. Whether veteran-owned small business concerns were solicited and, if not, why not;
   c. Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
   d. Whether HUBZone small business concerns were solicited and, if not, why not;
   e. Whether small disadvantaged business concerns were solicited and if not, why not;
   f. Whether women-owned small business concerns were solicited and if not, why not;
   g. If applicable, the reason award was not made to a small business concern.

13. Records of any outreach efforts to contact –
   a. Trade associations;
   b. Business development organizations;
   c. Conferences and trade fairs to locate small business, HUBZone small, small disadvantaged, and women-owned small business sources; and
   d. Veteran service organizations.

14. Records of internal guidance and encouragement provided to buyers through –
   a. Workshops, seminars, training, etc.; and
   b. Monitoring performance to ensure compliance with the program’s requirements.

15. In a contract-by-contract basis, records to support award data submitted by the offeror to the Government indicating the name, address, and business category of each subcontractor. Contractors having commercial plans need not comply with this requirement.

16. In order to effectively implement this plan to the extent consistent with efficient contract performance, the offeror –
   a. Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor’s list of potential small business, veteran-owned small business, service-disabled veteran-owned small business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to ensure that all such small business concerns an opportunity to compete over a period of time.
   b. Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, and their subcontracting plans.
   c. Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
   d. Confirm that the offeror representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the SAM database or by contacting SBA.

17. Provide notice to subcontracting concerns of penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

18. The name of the individual employed by the offeror who will administer the offeror’s subcontracting program, and an indication of his or her qualifications.

19. Assurances that the offeror will include the clause of this contract entitled “Utilization Of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business and women-owned small business concerns) that receive subcontract awards in excess of $150,000 to—
   i. Cooperate in any studies or surveys as may be required;
   ii. Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
   iii. Submit the Individual Subcontractor Report (ISR) and/or the Summary Subcontract Report (SSR) using eSRS at http://www.esrs.gov. The report shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes) that are not 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.
   iv. Ensure that its subcontractors with subcontracting plans agree to submit the Individual Subcontracting Report (ISR) and/or the Summary Subcontracting Report (SSR) using eSRS; 
   v. Records of internal guidance and encouragement provided to buyers through –
      a. Workshops, seminars, training, etc., and
      b. Monitoring performance to ensure compliance with the program’s requirements.
   vi. Records of any outreach efforts to contact –
      a. Trade associations;
      b. Business development organizations;
      c. Conferences and trade fairs to locate small business, HUBZone small, small disadvantaged, and women-owned small business sources; and
      d. Veteran service organizations.
   v. Records of internal guidance and encouragement provided to buyers through –
      a. Workshops, seminars, training, etc., and
      b. Monitoring performance to ensure compliance with the program’s requirements.

20. Assurances that the offeror will include the clause of this contract entitled “Utilization Of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business and women-owned small business concerns) that receive subcontract awards in excess of $150,000 to—
   i. Cooperate in any studies or surveys as may be required;
   ii. Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
   iii. Submit the Individual Subcontractor Report (ISR) and/or the Summary Subcontract Report (SSR) using eSRS; 
   iv. Ensure that its subcontractors with subcontracting plans agree to submit the Individual Subcontracting Report (ISR) and/or the Summary Subcontracting Report (SSR) using eSRS; 
   v. Records of internal guidance and encouragement provided to buyers through –
      a. Workshops, seminars, training, etc., and
      b. Monitoring performance to ensure compliance with the program’s requirements.
   vi. Records of any outreach efforts to contact –
      a. Trade associations;
      b. Business development organizations;
      c. Conferences and trade fairs to locate small business, HUBZone small, small disadvantaged, and women-owned small business sources; and
      d. Veteran service organizations.
   v. Records of internal guidance and encouragement provided to buyers through –
      a. Workshops, seminars, training, etc., and
      b. Monitoring performance to ensure compliance with the program’s requirements.

21. Assurances that the offeror will include the clause of this contract entitled “Utilization Of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business and women-owned small business concerns) that receive subcontract awards in excess of $150,000 to—
   i. Cooperate in any studies or surveys as may be required;
   ii. Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
   iii. Submit the Individual Subcontractor Report (ISR) and/or the Summary Subcontract Report (SSR) using eSRS; 
   iv. Ensure that its subcontractors with subcontracting plans agree to submit the Individual Subcontracting Report (ISR) and/or the Summary Subcontracting Report (SSR) using eSRS; 
   v. Records of internal guidance and encouragement provided to buyers through –
      a. Workshops, seminars, training, etc., and
      b. Monitoring performance to ensure compliance with the program’s requirements.
   vi. Records of any outreach efforts to contact –
      a. Trade associations;
      b. Business development organizations;
      c. Conferences and trade fairs to locate small business, HUBZone small, small disadvantaged, and women-owned small business sources; and
      d. Veteran service organizations.
submitted annually for the twelve month period ending September 30. 

25. SUBCONTRACTOR COST OR PRICING DATA (OCT 2010) 

(a) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; 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 15.403-4, the Contractor 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(a) to include any information reasonably required to explain the subcontractor’s estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimation, including those used in projecting from available data, and the nature and amount of any contingencies included in the price, unless an exception under FAR 15.403-4 applies.

(b) 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 (a) of this clause was complete, accurate, and current as of the date of agreement on the negotiated price of the subcontract or modification.

(c) In each subcontract that exceeds the threshold for submission of certified cost or pricing data, the Contractor shall require each of its subcontractors to submit a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small, small disadvantaged, service-disabled veteran, and women-owned small businesses, that were awarded to that subcontractor under its predominant North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit a Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial contract, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

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

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

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

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

27. 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 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 15.403-4, the Contractor 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(a) to include any information reasonably required to explain the subcontractor’s estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimation, including those used in projecting from available 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, 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 price or the date of award, whichever is later.

28. 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 certified 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 any data that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be based on the amount of the profit or fee, if any, which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

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

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

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

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

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

(2) Except as prohibited by subdivision (c)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if the (A) Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested, and

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

(i) An offset shall not be allowed if—

(1) The undersubmitted data were known by the Contractor to be undersubmitted before the 'as of' date specified on its Certificate of Current Cost or Pricing Data; or

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

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

(i) Interest compounded daily, as required by 26 U.S.C. 6622, on the amount of such overpayment to be computed from the date(s) of overpayment to the Contracting Officer to the date of recovery, at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2),

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

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

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of certified cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-4 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, 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 any data that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit, markup, which by (1) the actual subcontract or (2) if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

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

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

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.
EXCUSABLE DELAYS (OCT 1999)

(a) Definitions. As used in this clause—
(1) The “contractor’s managerial personnel” means any of the Contractor’s directors, officers, managers, supervisors, or equivalent representatives who have supervision or direction of—
(A) All or substantially all of the Contractor’s business;
(B) All or substantially all of the Contractor’s operation at a plant or separate location as part of the Contractor’s performance of this contract; or
(C) A separate and complete major industrial operation connected with performing this contract.
(2) “Subcontract” as defined in FAR 44.101, means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.
(b) The Contractor shall provide and maintain an inspection system acceptable to the Laboratory covering the supplies, fabricating methods, and special tooling under this contract. The Contractor shall perform inspections and tests in a manner that will not unduly delay the work.
(c) Unless otherwise specified in the contract, the Laboratory shall accept supplies as promptly and at the place of delivery stated in the contract. The Contractor shall not tender for acceptance any materials that were nonconforming at the time of delivery, except as provided in this clause or as may be agreed in accordance with FAR 52.215-1.
(d) Recovery of excessive pass-through charges. If the Contracting Officer determines that excessive pass-through charges exist—
(1) For other than fixed-price contracts, the excess pass-through charges are unallowable in accordance with the provisions in FAR subpart 31.2; and
(2) For applicable DoD fixed-price contracts, as identified in 15.409(d)(2)(iv)(B), the Government shall be entitled to a price reduction for the amount of excessive pass-through charges included in the contract price.
(e) Access to records.
(1) The Contracting Officer, or authorized representative, shall have the right to examine and audit all of the Contractor’s records, including those defined at FAR 52.215-1, necessary to determine whether the Contractor proposed, billed, or claimed excessive pass-through charges.
(2) For those subcontracts to which paragraph (f) of this clause applies, the Contracting Officer, or authorized representative, shall have the right to examine and audit all the subcontractors’ records (as defined at FAR 52.215-1) necessary to determine whether the subcontractor proposed, billed, or claimed excessive pass-through charges.
(f) Flowdown. The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontract sewer contracts under this contract that exceed the simplified acquisition threshold, except that the clause shall not be included in cost-reimbursement subcontract and fixed-price subcontracts, except those identified in 15.409(d)(2)(iv)(B), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.

32. EXCUSABLE DELAYS (OCT 1999)

(a) Except for defaults of subcontractors at any tier, the contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control of the contractor and without the fault or negligence of the contractor. Examples of these causes are (1) acts of God or of public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, lockouts, or work stoppages, (8) events beyond the control of the contractor. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the contractor. “Default” includes failure to make progress in the work so as to endanger performance.
(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be in default. In this event, the contractor may make changes within the general scope of this contract in order to reduce or eliminate indirect costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

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

(a) Definitions. As used in this clause—
(1) “Added value” means that the Contractor performs subcontract management functions that are a benefit to the Government (e.g., processing orders of parts or services, maintaining inventory, reducing delivery lead times, managing multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).
(2) “Excessive pass-through charge,” with respect to a Contractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government other than charges for the costs of managing subcontracts and any applicable indirect costs and associated profit fee based on such costs.
(3) “No or negligible value” means the Contractor or subcontractor cannot demonstrate to the Contracting Officer that its effort added value to the contract or subcontract in accomplishing the work performed under the contract (including task or delivery orders).
(4) “Subcontractor,” as defined in FAR 44.101, means any supplier, distributor, vendor, or firm that furnishes supplies or services for performance of the contract or subcontract, it includes but is not limited to purchase orders, and changes and modifications to purchase orders.
(b) The Contractor shall modify the contract accordingly.
(c) The Government will not pay excessive pass-through charges. The Contracting Officer shall determine if excessive pass-through charges exist.
(d) Reporting. Required reporting of performance of work by the Contractor or a subcontractor.
(e) Unless otherwise specified in the contract, the Laboratory shall be liable to and shall pay the United States at the time such overpayment is made.
(f) An offset shall not be allowed—
(1) If the Contractor is unable to determine the amount of subcontract effort after award such that it exceeds 70 percent of the total cost of work to be performed under the contract, task order, or delivery order. The notification shall identify the revised cost of the subcontract effort and shall include verification that the Contractor will provide added value; or
(2) If any subcontractor changes the amount of lower-tier subcontractor effort after award such that it exceeds 70 percent of the total cost of the work to be performed under its subcontract. The notification shall identify the revised cost of the subcontract effort and shall include verification that the subcontractor will provide added value as required to the work to be performed under its subcontract.
(g) If the Contractor fails to provide an increased cost or make an equitable reduction in any fixed fee paid or payable under the contract, (1) the effective date of such increase or reduction shall be a dispute.

34. 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 this contract for any or none of the following reasons:
(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) Description of delivery.
(4) Description of services to be performed.
(b) If any change shall cause 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, 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 from the date of receipt of the written order. However, if the Laboratory decides that the facts justify it, the Laboratory may receive and act upon a proposal submitted before its time for submission.
(d) Nothing in this clause shall excuse the contractor from proceeding with the contract as changed.
(e) Notwithstanding the terms and conditions of paragraphs (a) and (b) above, the estimated cost of this contract and, if this contract is incrementally funded, the funds allocated for the performance of this contract is not 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 allocated to the contract. Until this modification is made, the contractor shall be liable to the Government for any excessive pass-through charge or indirect costs beyond the point established in the Limitation of Cost or Limitation of Funds clause of this contract.

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

This clause is applicable to all cost-reimbursement subcontracts that exceed the simplified acquisition threshold.
(a) Definitions. As used in this clause—
(1) “Added value” means that the Contractor performs subcontract management functions that are a benefit to the Government (e.g., processing orders of parts or services, maintaining inventory, reducing delivery lead times, managing multiple sources for contract requirements, coordinating deliveries, performing quality assurance functions).
(2) “Excessive pass-through charge,” with respect to a Contractor or subcontractor that adds no or negligible value to a contract or subcontract, means a charge to the Government other than charges for the costs of managing subcontracts and any applicable indirect costs and associated profit fee based on such costs.
(3) “No or negligible value” means the Contractor or subcontractor cannot demonstrate to the Contracting Officer that its effort added value to the contract or subcontract in accomplishing the work performed under the contract (including task or delivery orders).
(b) The Contractor shall provide and maintain an inspection system acceptable to the Laboratory covering the supplies, fabricating methods, and special tooling under this contract as complete records of all inspection work performed by the Contractor shall be maintained and made available to the Laboratory during contract performance and for as long afterwards as the contract requires.
(c) The Laboratory has the right to inspect and test the contract supplies, to the extent practicable at all places and times, including the period of manufacture, and in any event before acceptance. The Laboratory may also inspect the plants 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.
(d) 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 conveniences necessary for performance of these duties.
(e) 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 accepted earlier.
(f) At any time during contract performance, but no later than 6 months (or such other time as may be specified in the contract) after acceptance of the supplies to be delivered under the contract, the Laboratory may inspect any of the Contractor’s or any subcontractor’s supplies that are nonconforming at the time of delivery. Supplies are nonconforming when they are defective in material or workmanship or are otherwise not in conformity with contract requirements. Except where otherwise provided in paragraph (h) 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.
(g) If the Contractor fails to proceed with reasonable promptness to perform required replacement on the Laboratory’s behalf—
(1) The Contractor shall notify the Contracting Office in writing if—
(2) By contract or subcontract, or performance or correction and charge to the Contractor any increased cost or make an equitable reduction in any fixed fee paid or payable under the contract; or
(3) Require delivery of undelivered supplies at an equitable reduction in any fixed fee paid or payable under the contract; or
(4) Terminate the contract for default.
(h) Failure to agree on the amount of increased cost to be charged to the Contractor or the amount of the reduction in fixed fee shall be resolved as follows:
(i) Notwithstanding paragraphs (f) and (g) of this clause, the Laboratory may at any time require the Contractor to replace Government property at the cost of the Laboratory, nonconforming supplies, if the nonconformances are due to—
(1) Fraud, lack of good faith, or willful misconduct on the part of the Contractor’s managerial personnel; or
(2) The conduct of one or more of the Contractor’s employees selected or retained by the Contractor after any of the Contractor’s managerial personnel has reasonable grounds to believe that the employee is habitually careless or disqualified.

This clause applies in the same manner to corrected or replacement supplies as to supplies covered by this clause, if the new supplies are delivered to the same location as the original supplies; and the new supplies shall be deemed to be delivered at the same time as the original supplies were delivered.
35. SUBCONTRACTS (OCT 2010)

(a) Definitions:

As used in this clause—

"Approved purchasing system" means a Contractor’s purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Cost to subcontract" means the ‘written consent for the Contractor to enter into a particular subcontract.

"Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and all modifications to purchase orders. When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (g) or (h) of this clause.

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

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

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

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

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

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold.

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

(1) The Contractor shall notify the Laboratory Procurement Official reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

A description of the supplies to be subcontracted.

Identification of the type of subcontract to be used.

Identification of the subcontractor.

The proposed subcontract price.

The subcontractor’s current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

The subcontractor’s Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

A negotiation memorandum reflecting—

(i) The principal elements of the subcontract price negotiations;

(ii) The most significant considerations controlling establishment of initial or revised prices;

(iii) The reason certified cost or pricing data were or were not required;

(iv) The extent, if any, to which the Contractor did not rely on the subcontractor’s certified cost or pricing data in determining the price objective and in negotiating the final price.

The extent to which it was recognized in the negotiation that the subcontractor’s certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated.

(e) The Contractor shall notify the Laboratory Procurement Official reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

(1) A description of the supplies or services to be subcontracted.

(2) A comparison of the incentive fee or profit plan when incentives are used. The comparison shall identify each critical performance element, management decisions used to quantify such incentive element, reasons for the incentives, and a summary of all trade-off possibilities included in the negotiated fee.

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

(1) Of the acceptability of any subcontract terms or conditions; or

(2) Of the acceptability of any cost under this contract.

(g) The Contractor shall provide the Laboratory Procurement Official immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any Government department or agency.

(h) The Contractor shall give the Laboratory Procurement Official immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any Government department or agency.

(i) The Contractor shall notify the Laboratory Procurement Official immediately in writing of any subcontracts, modifications, or changes to subcontracts performed under this contract that may restrict or prohibit the Contractor’s performance of subcontracts.

36. ASSIGNMENT (OCT 1999)

Neither this contract nor any interest therein nor claim thereunder shall be assigned or transferred by the Contractor except as expressly authorized in writing by the Laboratory. The Laboratory may assign this contract to a successor operator of the Laboratory.
The Contractor shall have a system to manage (control, use, preserve, protect, contract requirements and obligations relating to Government property in the possession of an Official appointed in accordance with agency procedures, responsible for administering the Contractor.

"Material" means property that may be consumed or expended during the performance of a contract, or its use in the performance of a contract.

"Precious metals" means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.


"Sensitive property" means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples of such properties include munitions, firearms, ammunition, explosives, and toxic or infectious substances.

"Surplus property" means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(2) The Contractor shall have a system to manage (control, use, preserve, protect, contract requirements and obligations relating to Government property in the possession of an Official appointed in accordance with agency procedures, responsible for administering the Contractor.

"Material" means property that may be consumed or expended during the performance of a contract, or its use in the performance of a contract.

"Precious metals" means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.


"Sensitive property" means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples of such properties include munitions, firearms, ammunition, explosives, and toxic or infectious substances.

"Surplus property" means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(3) The Contractor shall have a system to manage (control, use, preserve, protect, contract requirements and obligations relating to Government property in the possession of an Official appointed in accordance with agency procedures, responsible for administering the Contractor.

"Material" means property that may be consumed or expended during the performance of a contract, or its use in the performance of a contract.

"Precious metals" means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.


"Sensitive property" means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples of such properties include munitions, firearms, ammunition, explosives, and toxic or infectious substances.

"Surplus property" means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(4) The Contractor shall have a system to manage (control, use, preserve, protect, contract requirements and obligations relating to Government property in the possession of an Official appointed in accordance with agency procedures, responsible for administering the Contractor.

"Material" means property that may be consumed or expended during the performance of a contract, or its use in the performance of a contract.

"Precious metals" means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.


"Sensitive property" means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples of such properties include munitions, firearms, ammunition, explosives, and toxic or infectious substances.

"Surplus property" means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).
Acquisition cost, if any, or estimated scrap value, of the property; (d) Estimated cost of repair or replacement costs.

10. All known interests in commingled property of which the contractor is not the owner; (h) Any delay in delivery of Government-furnished property.

11. Cause and corrective action taken or to be taken to prevent recurrence.

12. A statement that the Government will receive any reimbursement covering the loss, theft, damage or destruction in the event the contractor was or will be reimbursed or compensated.

13. Copies of all supporting documentation.

14. Last known location.

15. A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(vi) Relief of stewardship responsibility. Unless the contractor provides otherwise, the contractor shall be relieved of stewardship responsibility for Government property when such property is—

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the property administrator; (B) Contains precious metals that are economically beneficial to recover; (C) Is a classified item; (D) Is generated from classified items; (E) Contains hazardous materials or hazardous wastes; (F) A property that is sensitive to the extent of such insurance or reimbursement. The allowability of insurance or reimbursement costs shall be determined in accordance with FAR 30.209.

(i) The contractor shall list, on Standard Form 1428 Inventory disposal schedule, the property that is excess to contract performance. The contractor shall separate the damaged and undamaged Government property, place all the Government property from further loss, theft, damage or destruction cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual use.

The contractor shall establish and maintain Government accounting source data, as may be required by the contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

The contractor shall establish and maintain procedures to appraise its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the property administrator.

The government shall have access to the contractor’s premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the contractor’s property management plans, systems, procedures, records, and supporting documentation that pertains to Government property. This access includes all site locations and, with the contractor’s consent, all subcontractor premises.

The contractor shall list, on Standard Form 1428 Inventory disposal schedule, the property that is excess to contract performance. The contractor shall separate the damaged and undamaged Government property, place all the Government property from further loss, theft, damage or destruction cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual use.

The contractor shall establish and maintain Government accounting source data, as may be required by the contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

The contractor shall establish and maintain procedures to appraise its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the property administrator.

The contractor shall use Standard Form 1428 Inventory disposal schedule, the property that is excess to contract performance. The contractor shall separate the damaged and undamaged Government property, place all the Government property from further loss, theft, damage or destruction cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual use.

The contractor shall establish and maintain Government accounting source data, as may be required by the contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

The contractor shall establish and maintain procedures to appraise its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the property administrator.
for use. Approval does not relieve the Contractor of any liability for such property under this contract.

(8) Disposition instructions.
   (i) If the Government does not furnish disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor’s approved scrap procedures.
   (ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Plant Clearance Officer. Unless otherwise directed by the Laboratory Procurement Official or by the Plant Clearance Officer, the Contractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to property disposal.
   (iii) The Laboratory Procurement Official may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i) of this clause.

(9) Disposal proceeds. As directed by the Laboratory Procurement Official, the Contractor shall credit to the Government the proceeds from the sale of the property to the Contractor, or to the Treasury of the United States as miscellaneous receipts.

(10) Subcontractor inventory disposal schedules. The Contractor shall require its Subcontractors to submit an inventory disposal schedule to the Contractor in accordance with the requirements of paragraph (j)(4) of this clause.

(b) Abandonment of Government property.
   (1) The Government shall not abandon sensitive Government property or termination inventory without the Contractor’s written consent.
   (2) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease.
   (3) The Government has no obligation to restore or rehabilitate the Contractor’s premises under any circumstances; however, if Government-furnished property is withdrawn or is unavailable for use after the termination inventory is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

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

(m) Contracts outside the United States. If this contract is to be performed outside of the United States and its outlying areas, the words “Contract” and “Contracting Party” (whenever they appear in this clause) shall be construed as “United States Government” and “United States Government-furnished property.”

(End of clause)

Alternate I (Aug 2010).

For contracts other than cost reimbursement, labor hour, time and materials, and fixed price types, substitute the following for paragraph (h)(1) of the basic clause:

(1) The Contractor assumes the risk of, and shall be responsible for, any loss, theft, damage or destruction of Government property upon its delivery to the Contractor as Government-furnished property. However, the Contractor is not responsible for reasonable wear and tear of the property or for Government property properly consumed in performing this contract.

Alternate II (Jun 2007).

For contracts for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research, substitute the following for paragraph (f)(3) of this clause:

(3) Title to property (and other tangible personal property) purchased with funds available for research shall vest in the Contractor upon acquisition or as soon thereafter as feasible; provided that the Contractor obtained the Laboratory Procurement Official’s approval before each acquisition. Title to property purchased with funds available for research and having an acquisition cost of $5,000 or more shall vest as soon as property is included in the Contractor’s inventory. The Contractor under this paragraph, the Contractor agrees that no costs shall be allowed for any depreciation, amortization, or use under any existing or future Government contract or subcontract thereunder. The Contractor shall furnish the Laboratory Procurement Official a list of all property to which title is vested in the Contractor under this paragraph within 15 days following the end of the calendar quarter during which it was received. Vesting title under this paragraph is subject to civil rights legislation, 42 U.S.C. 2000d-1. Before title is vested and by signing this contract, the Contractor agrees and acknowledges that “no person in the United States or its outlying areas shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this contemplated financial assistance (title to property).”

39. KEY PERSONNEL (DEC 2000)

a. The personnel listed in Clause Key Personnel, are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must:
   1. Notify the Laboratory Procurement Official reasonably in advance;
   2. Submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the proposed substitution;
   3. Obtain the Laboratory Procurement Official’s written approval.

b. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligations to maintain satisfactory standards of employee competency, conduct, and integrity, the Contractor may remove or suspend such person at once, although the Contractor must notify Laboratory Procurement Official promptly prior to or concurrently with such action.

c. The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

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

(a) Overtime requirements. No Contractor or subcontractor employing laborers or mechanics (see Federal Acquisition Regulation 22.300) subject to the Contract Work Hours and Safety Standards Act (41 U.S.C. 35) shall require or permit them to work more than 40 hours in any workweek unless they are paid at least 1 1/2 times the basic rate of pay for each hour worked over 40 hours.

(b) Violation; liability for unpaid wages; liquidated damages. The responsible Contractor and subcontractor are liable for unpaid wages and liquidated damages paid to the employees covered by the Act. Both are subject to the terms in paragraph (a) of this clause. In addition, the Contractor and subcontractor are liable for liquidated damages payable to the Government. The Contractor will assess liquidated damages at the rate of $10 per affected employee for each calendar day on which the employer required or permitted the employee to work in excess of 40 hours without paying overtime wages required by the Contract Work Hours and Safety Standards Act (41 U.S.C. 35).

(c) Withholding for unpaid wages and liquidated damages. The Contractor will withhold from payments due under the contract sufficient funds required to satisfy any Contractor or subcontractor liabilities, the

Contracting Officer will withhold payments from other Federal or federally assisted contracts held by the same Contractor that are subject to the Contract Work Hours and Safety Standards Act (41 U.S.C. 35).

(d) Payrolls and basic records. The Contractor and its subcontractors shall maintain payrolls and basic payroll records for all laborers and mechanics working on the contract during the contract year. The records shall contain the name and address of each employee, employee identification number, hours worked, wages paid, and job classification.

(e) Laborer and mechanic representation. The Contractor or subcontractor shall represent workers as required by law or regulation.

41. WALSH-HEALEY PUBLIC CONTRACTS ACT (OCT 2010)

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds $150,000.00 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.

42. INTEGRITY OF UNIT PRICES (OCT 2010)

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

(a) If 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), the Contracting Officer may, by contract or otherwise, correct or require the Contractor to correct or perform. The Laboratory Procurement Official or, the Contractor shall also identify those items that will not make up or to which it will not contribute significant value.

(b) In the contractor’s agreement, the Laboratory Procurement Official shall require the Contractor to include in all 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; or services where supplies are not required; commercial items, and petroleum products.

43. WARRANTY OF SERVICES (MAY 2001)

(a) Definition. “Acceptance,” as used in this clause, means the act of an authorized representative of the Laboratory by which the Laboratory assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance 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, at the time of acceptance, are in accordance with the Laboratory’s specifications and conform to the requirements of this contract. The Laboratory Procurement Official shall give written notice of any defect or nonconformance to the Contractor within 45 days following acceptance of the Laboratory. This notice shall state either—
   (1) That the Contractor shall correct or reperform any defective or nonconforming service; or
   (2) That the Laboratory does not require correction or reperformance.

(c) If the Contractor is required to correct or reperform, 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 replace with similar services and charge to the Contractor the cost occasioned to the Laboratory thereby, or consider the contractor in default.

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

44. 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.

Energy Consuming Products. When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the Contractor will specify and deliver Energy Star® qualified products or conforming to the Federal Energy Management Improvement Act’s (FEMP) Energy Star Program’s Energy Efficiency Requirements; whichever may be applicable, provided products with such a designation are available and are cost competitive and meet applicable performance standards. Information about these products is available for Energy Star at:

When the contract requires the specification of delivery of imaging equipment (i.e. copiers, digital duplicators, copiers, medical equipment, machines for printing, scanners, printers, or scanners). The clause at FAR 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) shall apply.

When the contract requires the specification or delivery of televisions, the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Televisions (Jun 2014) shall apply, or it’s Alternate I. When the contract calls for cost effective and fuel efficient personal computer products, the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (June 2014) shall apply.

45. BUY AMERICAN ACT – SUPPLIES (MAY 2014)

(a) Definitions. As used in this clause—

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

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

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

(ii) Is sold in substantial quantities in the commercial marketplace; and

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

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

"Component" means an article, material, or supply incorporated directly into an end product.

"Cost or components" means—

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

(2) The Contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Laboratory Procurement Official) after receiving a notice specifying the default.

(b) The contractor agrees to take such action as may be required or approved by the Laboratory to cause any State or local tax, fee, or charge which would be an allowable cost to be recovered to be refunded or to take such action as may be required or approved by the Laboratory to seek recovery of any payments made, including assignment to the Laboratory of or otherwise to recover all rights to the extent that it specified delivery of foreign end products in the Representations and Certifications for the solicitation entitled "Buy American Certificate."

(c) The contractor shall be reimbursed —

(f) The provisions of paragraph (e) of this clause shall not restrict the right of the contractor to be reimbursed for the performance of maintenance insured 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.

(g) If any suit or action is filed or any claim is made against the contractor, the cost and expenses which may be reimbursable to the contractor under this contract, and the risk of which is then uninsured or is insured for less than the amount claimed, the contractor shall —

(1) Immediately notify the Laboratory and promptly furnish copies of all pertinent papers received;

(2) Authorize Laboratory or Government representatives to collaborate with counsel for the insurance carrier in settling or defending the claim when the amount of the liability claimed exceeds the amount of coverage; and

(3) Authorize Laboratory or Government representatives to settle or defend the claim and to represent the contractor in or to take charge of any litigation, if required by the Laboratory or the Government, when the claim is not covered or is covered by bond.

The contractor may, at its own expense, be associated with the Laboratory or Government representatives in any such claim or litigation.

47. 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 collected from the contractor with respect to the contract work, any transaction thereunder, or in property or custody of the contractor and which would otherwise be an allowable item of cost, or which is included in the payment of any such tax, fee, or charge when in fact inapplicable or irrelevant.

(b) The contractor agrees to take such action as may be required or approved by the Laboratory to cause any State or local tax, fee, or charge which would be an allowable cost to be recovered to be refunded or to take such action as may be required or approved by the Laboratory to seek recovery of any payments made, including assignment to the Laboratory of or otherwise to recover all rights to the extent that it specified delivery of foreign end products in the Representations and Certifications for the solicitation entitled "Buy American Certificate."

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

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

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

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

(2) The contractor defaults in performing this contract and fails to cure the default within 10 days (unless extended by the Laboratory Procurement Official) after receiving a notice specifying the default. "Default" includes failure to make progress in the work so as to endanger performance.

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

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

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause), except as necessary to complete the terminated portion of the contract.

(3) Terminate all subcontracts to the extent they relate to 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 case the Laboratory shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Laboratory Procurement Official, settle all outstanding liabilities and disbursements arising from the termination of subcontracts, the cost of which would be reimbursable in whole or in part, under this contract, approval or ratification will be final for purposes of this clause.

(6) Transfer title (if not already transferred) and, as directed by the Laboratory Procurement Official, deliver to the Government all of:

(i) The fabricated or unbuilt products, work in process, completed work, supplies, materials, and other material or services purchased for or produced for use by the Contractor in connection with the work terminated;

(ii) The completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government; and

(iii) The jigs, dies, fixtures, and other special tools and tools acquired or manufactured for the contract, the cost of which the Contractor has been or will be reimbursed under this contract.

(7) Complete performance of the work not terminated.

(8) Do all other things which may be necessary, or as directed by 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 or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Laboratory Procurement Official, any property or items that are unused and which would otherwise be an allowable item of cost, or which would otherwise be an allowable item of cost, after the Contractor is notified by and at prices approved by the Laboratory Procurement Official. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Laboratory under this contract, the cost of paid for with funds, or in any other manner directed by the Laboratory Procurement Official.
The Contractor and Laboratory Procurement Official must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Laboratory Procurement Official shall amend the contract to reflect the adjustment in fee for the continued portion of the contract when there is a partial termination. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Laboratory Procurement Official upon written request of the Contractor within this 1-year period. However, if the Laboratory Procurement Official determines that it is impractical to amend the contract in writing within this 1-year period, it shall so advise the Contractor in writing. If the Contractor fails to submit the proposal within this 1-year period, the Laboratory Procurement Official may determine, on the basis of information available, the amount of any, due the Contractor because of the termination and shall pay the amount determined.

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

1. The amount determined by the Laboratory Procurement Official if there is no right of appeal or if no timely appeal has been taken; or
2. The amount finally determined on an appeal.

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

1. All unliquidated or additional or other payments to the Contractor, under the terminated portion of this contract;
2. Any claim which the Laboratory has against the Contractor under this contract; and
3. The agreed price for, or the proceeds of sale of, all materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Contractor.

The Contractor and Laboratory Procurement Official must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Laboratory Procurement Official shall amend the contract to reflect the agreement.

The Contractor may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Laboratory Procurement Official believes the total of those payments will not exceed the total of those costs and will be refunded to the Contractor if the services have not been rendered or the materials have not been delivered or used. All payments shall be made at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 3121(a)(2). Interest shall be computed for the period from the day the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because dollars in excess of the initial termination inventory until 5 days after the date of the retention or disposition, or a later date determined by the Laboratory Procurement Official because of the termination.

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

3. Operating contractor procedures (Apr 2010)

4. Anti-kickback procedures (May 2014)

a. Definitions.

“Kickback,” as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

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

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

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

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

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

“Subcontractor,” as used in this clause, means any person, other than the prime Contractor, who offers to furnish or supplies any goods, materials, equipment, or services of any kind under a prime contract or subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or supplies general services to the prime Contractor or to a higher tier subcontractor.

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

b. Prohibition of kickbacks.

1. If the contract is terminated for convenience of the Government, the settlement shall include a percentage of the fee equal to the percentage of completion of work contemplated under the contract, but excluding subcontract effort included in subcontractors’ termination proposals, less proportionate payments for fee.

2. If the contract is terminated for default, the total fee payable shall be such proportionate part of the fee as the total number of articles (or amount of services) delivered and accepted by the Laboratory is to the total number of articles (or amount of services) of a like kind required by the contract.

3. If the settlement includes only fee, it will be determined under paragraph (h)(iv) of this clause.

4. The cost principles and procedures in Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

The Contractor shall have the right of appeal from any determination made by the Laboratory Procurement Official under paragraph (f), (h), or (i) of this clause, except that if the Contractor failed to submit the settlement termination proposal within the time provided in paragraph (f) and failed to request a time extension within the time allowed, the Laboratory Procurement Official has made a determination of the amount due under paragraph (f), (h), or (i) of this clause, the Contractor shall pay the Laboratory.

(1) The amount determined by the Laboratory Procurement Official if there is no right of appeal or if no timely appeal has been taken; or

(2) The amount finally determined on an appeal.

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

1. All unliquidated or additional or other payments to the Contractor, under the terminated portion of this contract;
2. Any claim which the Laboratory has against the Contractor under this contract; and
3. The agreed price for, or the proceeds of sale of, all materials, supplies, or other things acquired by the Contractor or sold under this clause and not recovered by or credited to the Laboratory.

The Contractor and Laboratory Procurement Official must agree to any equitable adjustment in fee for the continued portion of the contract when there is a partial termination. The Laboratory Procurement Official shall amend the contract to reflect the agreement.

The Contractor may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Laboratory Procurement Official believes the total of those payments will not exceed the total of those costs and will be refunded to the Contractor if the services have not been rendered or the materials have not been delivered or used. All payments shall be made at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 3121(a)(2). Interest shall be computed for the period from the day the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor’s termination settlement proposal because dollars in excess of the initial termination inventory until 5 days after the date of the retention or disposition, or a later date determined by the Laboratory Procurement Official because of the termination.

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

50. RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) – APPLICABLE TO CONTRACTS WHICH EXCEED $100,000

(1) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with a subcontractor whereby the subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(2) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being bid priced differently from any other prospective purchaser for the sale of the commercial item(s).

(3) The Contractor agrees to incorporate the substance of this clause, including paragraph (c)(5) but excluding paragraph (c)(1), in all subcontracts under this contract which exceed $150,000.

51. NEGOTIATED OVERHEAD RATES (AUG 2002)

(1) Notwithstanding the provisions of the clause entitled “Allowable Cost and Payment,” the allowable indirect costs shall be those calculated by applying negotiated overhead rates to bases agreed upon by the parties, as specified below.

(2) The contractor, as soon as possible but not later than ninety (90) days after the expiration of his fiscal year, or such other period as may be specified in the contract, shall submit to the Laboratory, with a copy to the cognizant audit activity, a proposed final overhead rate or rates, and overhead rates to bases agreed upon by the parties, as specified below.

(3) The allowability of costs and acceptability of cost allocation methods shall be determined in accordance with the regulations set forth in the Federal Acquisition Regulation.

(4) The results of each negotiation shall be set forth in a modification to this contract, which shall specify (1) the agreed final rates, (2) the bases to which the rates apply, and (3) the period for which the rates are applicable.

(5) The contractor shall incorporate the substance of this clause, including paragraph (c)(5) but excluding paragraph (c)(1), in all subcontracts under this contract which exceed $150,000.

52. LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

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

(a) Definitions. As used in this clause—

"Agency" means "executive agency" as defined in Federal Acquisition Regulation (FAR) 2.101.

"Covered Federal action" means any of the following actions:


4. Entering into any cooperative agreement.

5. Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.
"Indian tribe" and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

"Influencing or attempting to influence" means making, with the intent to influence, any communication or appearance before an officer or employee of any agency, a Member of Congress, an officer, or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Local government" means a unit of government in a State and, if chartered, established, or otherwise recognized by a State as a local governmental entity, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local governmental entity.

"Officer or employee of an agency" includes the following individuals who are employed by an agency:

1. An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
2. A member of the uniformed forces, as defined in section 101(2), Title 37, United States Code.
3. A State Government employee, as defined in section 202, Title 18, United States Code.
4. An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, 5 U.S.C. App., or an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

"Person" means an individual, corporation, company, association, authority, firm, organization, partnership, society, State, and any other instrumentality of any public or private sector.

"Reasonable compensation" means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for a similar position in the private sector.

"Reasonable payment" means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

"Receives" includes the Contractor and all subcontractors. This term includes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contract funds under a cooperative agreement with the SBA, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

"Regularly employed" means, with respect to a subcontractor or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 120 working days within 1 year immediately preceding the date of the subcontract and who initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 120 working days within 1 year immediately preceding the date of the subcontract and who initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

"State" means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition. 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement, or an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action, from receiving any compensation that is inconsistent with the normal compensation for a similar position in the private sector.

(c) The estimated cost shall be increased to the extent that (1) the amount allotted by the Laboratory or, (2) if this is a cost-sharing contract, the amount then allotted by the Laboratory plus the contractor's corresponding share, shall be allowable to the Contractor up to the full estimated cost to the Laboratory specified in the Schedule, exclusive of any fee. The contractor agrees to perform, or have performed, work on the contract to the point at which the total amount paid and payable by the Laboratory under the contract approximates but does not exceed the total amount actually allotted by the Laboratory to the contract.

"Schedule" specifies the amount presently available for payment by the Laboratory and also specifies the share of the cost of any covered Federal action that is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Laboratory will allot additional funds incrementally to the Contractor up to the full estimated cost of the contract specified in the Schedule, exclusive of any fee. The contractor agrees to perform, or have performed, work on the contract to the point at which the total amount paid and payable by the Laboratory under the contract approaches but does not exceed the total amount actually allotted by the Laboratory to the contract.

(d) 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 30 days, when added to the costs incurred in the period of (v) described in paragraph (d) of this clause, will exceed the remaining funds allotted by the Laboratory for this contract. 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 contractor's and the Laboratory's share of the cost specified in the Schedule and any other funds allotted to the contractor for any costs in excess of the estimated cost.

(e) The Schedule provides for the payment of funds to the contractor prior to the time that the contractor would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other Federal procurement provision.

53. LIMITATION OF FUNDS (APR 1984)

(a) The parties estimate that performance of this contract will not cost the Laboratory more than the estimated cost specified in the Schedule or, 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 contractor's and the Laboratory's share of the cost specified in the Schedule and any other funds allotted to the contractor for any costs in excess of the estimated cost.

(b) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the contractor's written request the authorized Laboratory Procurement Official will terminate this contract on that date in accordance with the procedures of the Laboratory. In the event the funds made available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the authorized Laboratory Procurement Official may terminate this contract on that later date.

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

1. The Laborator is not obligated to reimburse the contractor for costs incurred in any period specified in the Schedule, exclusive of any fee. The contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in any such period.

2. The amount then allotted by the Laboratory to the contract plus the contractor's corresponding share, shall be allowable to the Contractor up to the full estimated cost to the Laboratory specified in the Schedule, exclusive of any fee. The contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Laboratory under the contract approximates but does not exceed the total amount actually allotted by the Laboratory to the contract.

3. The contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding $150,000.
Official issues a termination or other notice and directs that the increase is solely to
cover termination or other specified expenses.

(ii) The Contractor shall submit an adequate final indirect cost rate proposal to the Laboratory Procurement Official for each final indirect cost pool.

(iii) The Contractor shall support its proposal with adequate supporting data.

(iv) The proposed rates shall be based on the Contractor’s actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical upon receipt of the Contractor’s proposal.

(v) 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). Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) for each final indirect cost pool.

(C) Overhead expenses (final indirect cost pool). Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) and expense reallocation to final indirect cost pools.

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

(E) Financial capital of money factors computation.

(F) Reconciliation of books of account (i.e., General Ledger) and claimed direct costs by major cost element.

(G) 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.

(H) Schedule of cumulative direct and indirect costs claimed and billed by contract and subcontract.

(I) Subcontract information. Listing of subcontracts awarded to contractors. The Schedule of subcontractor is the prime or upper-tier contractor (include prime and subcontract numbers; subcontract value; government participation percentages in each of the allocation base amounts).

(J) 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.

(K) Recertification of cost of payroll per IRS form 941 to total labor costs distribution.

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

(M) Certificate of final indirect costs (see 52.242-4, Certification of Final Indirect Costs and Federal Property). Certificate issued to the Contractor.

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

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

(P) Certification of contract performance.

(Q) Identification of prime contractors under which the contractor performs as a subcontractor.

(R) Description of accounting system (excludes contractors required to submit a CAS Disclosure Statement or contractors where the designated accounting system has not changed from the previous year’s submission).

(S) Procedures for identifying and excluding unallowable costs from the costs charged to the Government (except that the procedures have not changed from the previous year’s submission).

(T) Certification, in accordance with other financial data (e.g., trial balance, compilation, review, etc.).

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

(V) Actions that have been and/or will be implemented to correct the weaknesses described in the management letter from subsection (R) of this section.

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

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

(Y) Federal and State income tax returns.

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

(aa) Minutes from board of directors meetings.

(bb) Listing of delay claims and termination Claims submitted which contain costs relating to the subject fiscal year.
50. PROHIBITION OF SEGREGATED FUNDING (FEB 1999)

(a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other areas, or other areas, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by ethnicity, sex, race, or national origin because of written or oral policies or employee custom. 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 as defined in this clause, unless it is not permitted by law to do so.

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

59. 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 under this contract, except for records that are not subject to audit under the rules set forth in paragraph (d) of this clause; all applicable laws, regulations, and Executive orders; and all applicable policies of the DOE.

(b) Inspection and audit of accounts and records. All books of account and records relating to this contract shall be subject to inspection and audit by DOE or its designee in accordance with the provisions of Clause 6. Access to and ownership of records, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and the Contractor shall afford DOE proper facilities for such inspection and audit.

(c) Audit of subcontractors' records. The Contractor also agrees, with respect to any subcontractor (including any subcontractor's procurements, orders) under this contract, to keep the contractor's books and records that are subject to audit 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's books and records that are subject to audit under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier, or to permit DOE or its designee to conduct an audit of the subcontractor's books and records that are subject to audit under the terms of the subcontract, costs incurred are a factor in determining the amount payable to the subcontractor of any tier.

(d) Disposition of records. Except as provided upon the Government and the Contractor, all records relating to any procurement action by the contractor, except for records that are subject to audit under the provisions of Clause 970.5204-3, Access to and Ownership of Records, all other records in the possession of the Contractor relating to this contract shall be preserved by the Contractor for a period of three years after final payment under this contract or payment of all undisputed invoices, whichever is earlier, and shall be disposed of in such manner as may be agreed upon by the Government and the Contractor.

(e) Reporting to the Government. The Contractor shall provide the Government with prompt, complete, and accurate reports of all financial transactions and other reports concerning the work under this contract that meet the reporting requirements of this clause.

5.6. BANKRUPTCY (JUL 1995)

In the event the contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the following provisions shall apply:

(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 properties or services if any proclamation, Executive order, or statute administered by OFAC, or its OFAC’s implementing regulations, would prevent the transaction by a person subject to jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited. Instead, as are most imports from Burma or North Korea, into the United States, its territories or possessions, and into the ordinary areas. Lists of entities and individual subject to economic sanctions are included in OFAC’s list of specially designated nationals and blocked persons (SDN List) maintained at http://www.treas.gov/offices/enforcement/ofac/sdn. More information about these restrictions, as well as updates to these regulations, as at publication date 33 CFR chapter V and/or OFAC’s website at http://www.treas.gov/offices/enforcement/ofac.

The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.
53. (c) The Contractor shall include the requirements of this clause in all subcontract contracts for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract in excess of $30,000 with a Contractor that is debarred, suspended, or proposed for debarment by an entity other than a subcontractor for a commercially available off-the-shelf item, the contractor will forward to the contracting officer a copy of the evidentiary record, which the Government determined Contractor non-compliance;

54. (2) Requiring the Contractor to terminate a subcontract;

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

56. (3) Laboratory involvement is necessary to ensure the public heath, safety, and security,

57. (4) The Laboratory Procurement Representative determines that the subcontract is, or

58. (a) The contractor shall require each proposed subcontractor whose subcontract will exceed $30,000 in value; and

59. (b) The Contractor shall require each proposed subcontractor whose subcontract will exceed $30,000 in value; and

60. The Contractor shall inform its employees in writing, in the predominant language of the workforce of employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908;

61. (2) The Contractor’s knowledge of the reasons for the subcontractor being cited in SAM.

62. (c) Contractor requirements. The Contractor shall—

63. (b) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the potential for conflicts, subversion, or proposed debarment

64. (2) The Labor Secretary determines that there is sufficient evidence to proceed to an investigation, it must notify the Contractor and in persons.

65. (2) The Contractor shall include the requirements of this clause, including this paragraph (e), in all subcontract contracts for a commercially available off-the-shelf item, the contractor will forward to the contracting officer a copy of the evidentiary record, which the Government determined Contractor non-compliance;

66. (1) The Contractor shall include the requirements of this clause, including this paragraph (e), in all subcontract contracts for a commercially available off-the-shelf item, the contractor will forward to the contracting officer a copy of the evidentiary record, which the Government determined Contractor non-compliance;


68. (2) The Contractor’s knowledge of the reasons for the subcontractor being cited in SAM.

69. (c) Contractor requirements. The Contractor shall—

70. (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.

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

72. (2) The Contractor’s knowledge of the reasons for the subcontractor being cited in SAM.

73. (c) Contractor requirements. The Contractor shall—

74. (b) The Contractor’s knowledge of the reasons for the subcontractor being cited in SAM.

75. (3) The abuse or threatened abuse of the legal process.

76. (1) Exceed $30,000 in value; and

77. The systems and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such subcontractor in view of the potential for conflicts, subversion, or proposed debarment

78. (2) The Contractor’s knowledge of the reasons for the subcontractor being cited in SAM.

79. (c) Contractor requirements. The Contractor shall—

80. (2) Requiring the Contractor to terminate a subcontract;

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

82. (3) Laboratory involvement is necessary to ensure the public heath, safety, and security,

83. (1) The Contractor shall include the requirements of this clause, including this paragraph (e), in all subcontract contracts for a commercially available off-the-shelf item, the contractor will forward to the contracting officer a copy of the evidentiary record, which the Government determined Contractor non-compliance;

84. (2) Requiring the Contractor to terminate a subcontract;

85. (3) Suspension of contract payments;

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

87. (2) Requiring the Contractor to terminate a subcontract;

88. (1) Any information receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy;

89. (2) The Contractor shall require each proposed subcontractor whose subcontract will exceed $30,000 in value; and

90. (3) Laboratory involvement is necessary to ensure the public heath, safety, and security,
(d) In conducting the activities under paragraphs (b) and (c) of this clause, the contractor and the Laboratory, if it elects to conduct the inquiry or investigation, shall adhere to the following guidelines:

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

(2) Objectivity and Expertise. The contractor shall select individual(s) to inquire, investigate, and adjudicate allegations of research misconduct promptly, but thoroughly. Generally, an investigatory team should consist of at least two individuals who conducted the inquiry or investigation, and must be separate organizationally from the element that conducted the inquiry or investigation.

(3) timeliness. The contractor shall coordinate, inquire, investigate and adjudicate allegations of research misconduct promptly, but thoroughly. Generally, an investigatory team should consist of at least two individuals who conducted the inquiry or investigation, and must be separate organizationally from the element that conducted the inquiry or investigation.

(4) 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 conducted or in process. The contractor must take all necessary corrective actions. Such action may include but are not limited to, correcting the research record and as appropriate imposing restrictions, controls, or other parameters on research in process or to be conducted in the future. The contractor must coordinate remedial actions with the DOE. The contractor must also consider whether personnel sanctions are appropriate. Any such sanctions must be consistent with any applicable personnel, laws, policies, and procedures, and shall take into account the serious misconduct involved, whether it was done knowingly or intentionally, and whether it was an 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 and conditions of the award instrument and Federal, state, and local laws and regulations. The Laboratory also reserves the right to conduct an internal investigation of any misconduct. The Laboratory reserves the right to coordinate remedial actions with the DOE. The Laboratory must also consider whether personnel sanctions are appropriate. Any such sanctions must be consistent with any applicable personnel, laws, policies, and procedures, and shall take into account the serious misconduct involved, whether it was done knowingly or intentionally, and whether it was an isolated event or pattern of conduct.

(f) Adjudication” means a formal review of a record of investigation of alleged research misconduct to determine whether and what corrective actions and sanctions should be taken.

“Fabrication” means making up data or results and recording or reporting them. “Fabrication” means manipulating research material or equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

“Finding of Research Misconduct” means a determination, based on a preponderance of the evidence, that research misconduct has occurred. Such a finding requires a conclusion that there has been a significant deviation from accepted standards of the relevant research community and that it is knowingly, intentionally, or recklessly committed.

“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.

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

“Research” means all basic, applied, and demonstration research in all fields of science, medicine, engineering, and methodology that is not limited to, but could include, but not be limited to, social sciences, economics, education, linguistics, medicine, psychology, social sciences statistics, and related disciplines involving human or animal subjects, including basic research in the natural sciences.

“Research Misconduct” means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results, but does not include honest differences of opinion or differing scientific views.

“Research record” means the record of all data or results that embody the facts resulting from scientific inquiries, including, but not limited to, research proposals, laboratory notes, physical and electronic, progress reports, abstracts, presentations, internal reports, and journal articles.

To comply with this contract, the contractor shall maintain current insurance policies that have the following minimum coverages and endorsements: (i) Company-owned or -rented vehicles or Government-owned vehicles; or (ii) other vehicles assigned to the contractor for the purpose of conducting the work undertaken by the contractor without such decision shall be at the contractor's own risk.

66. 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. A foreign national may be allowed to access the laboratory if the contractor has submitted to the designees. The contractor understands that the materials and/or information being transmitted under the EXPORT LICENSE AGREEMENT (AUG 2002) contract will not be used to perform work with respect to any prohibited end-use or entity. The contractor agrees not to export or transfer directly or indirectly any technology, software or materials provided by the Laboratory. The contractor shall be solely liable for any violation of export control laws or regulations, and shall indemnify and hold the Laboratory harmless from any liability that may arise for such violation.

67. EXPORT LICENSE AGREEMENT (AUG 2002)

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its partners undertake to deliver and development mission is exported from U.S. export control regulations, the Laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls. An export can occur through a variety of means, including, as oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their countries are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technologies. Proper transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:

- Fundamental research and information resulting from fundamental research
- Published information and software (publicly available) education information
- Patent applications

If the information, technology, and/or commodities do not fall into one of these categories, please contact the Export Control Manager at Argonne to determine if a license is required prior to export.

68. EXPORT CONTROL INFORMATION FOR FOREIGN TRAVEL (NOV 2001)

The United States is committed to encourage technology exchanges that are consistent with U.S. national security and nuclear nonproliferation objectives. Although much of the work Argonne and its partners undertake to deliver and development mission is exported from U.S. export control regulations, the Laboratory must abide by all of the export control laws and regulations to ensure its compliance with export controls. An export can occur through a variety of means, including, as oral communications, written documentation, or transfer of U.S. computer software to foreign nationals. Technology transfers to foreign nationals while they are visiting the United States or other countries or while you are visiting their countries are considered exports. You and the Laboratory can be held liable for improperly transferring controlled technologies. Proper transfer, verify that the technology, information, and/or commodities fall into one or more of the following categories:

- Fundamental research and information resulting from fundamental research
- Published information and software (publicly available) education information
- Patent applications

69. 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, and procedure, may in the judgment of the Laboratory or its designees. The Laboratory is not required to be flowed-down to all subcontractors at any tier.

70. 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.

71. ENVIRONMENTAL PROTECTION (MAY 2001)

In this performance, 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.

72. LIMITATIONS PERIOD (MAY 2001)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under this contract shall be commenced within two (2) years (unless an earlier period is stated elsewhere in the contract) after the completion of work under the contract and cause of action has arisen, whichever occurs first, otherwise the contractor shall be barred from pursuing such action.

73. 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, contractor agrees to obtain and maintain appropriate levels of automobile liability coverage for property damage and bodily injury and such insurance shall be primary.

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

(a) Definitions. As used in this clause—

(1) “Means operating a motor vehicle on an active roadway with the motor running, including, but not limited to, driving while temporarily stationary because of traffic, a traffic light, stop sign, or other traffic control device.

(2) Does not include operating a motor vehicle with or without the motor running when it is parked, is on a roadway or otherwise stationary, or when it is parked, is on a roadway or otherwise stationary, provided 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) If this clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009, or for the deductable or expenses reimbursed by the contractor and the contractor shall be paid an additional 0.5% of the amount reimbursed by the contractor and the contractor shall be deemed to be contractors in activities with Argonne/ National Laboratory. The requirement is to be flowed-down to all subcontractors at any tier.
(i) 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.

75. 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.

76. TECHNICAL STANDARDS PROGRAM (FEB 2011)

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

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

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

3. Participate as appropriate in development and review of those DOE Technical Standards where the contractor has technical or programmatic interests, or will be affected by the content of DOE Technical Standards under development, or as directed by the Contracting Officer.

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

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

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

77. SUSPECT COUNTERFEIT PARTS (DEC 2007)

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

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

### HEADMARK LIST

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

<table>
<thead>
<tr>
<th>Grade 5</th>
<th>Grade 8</th>
</tr>
</thead>
</table>

GRADE 5 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

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

GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>Asahi Mfg. (JP)</td>
<td>KS</td>
<td>Kosaka Kogyo (JP)</td>
</tr>
<tr>
<td>NF</td>
<td>Nippon Fasteners (JP)</td>
<td>RT</td>
<td>Takai Ltd (JP)</td>
</tr>
<tr>
<td>H</td>
<td>Hinomoto Metal (JP)</td>
<td>FM</td>
<td>Fastener Co of Japan  (JP)</td>
</tr>
<tr>
<td>M</td>
<td>Minamida Shiybo (JP)</td>
<td>KY</td>
<td>Kyoei Mfg (JP)</td>
</tr>
<tr>
<td>MS</td>
<td>Minato Kogyo (JP)</td>
<td>J</td>
<td>Jinn Her (TW)</td>
</tr>
<tr>
<td>Hollow Triangle</td>
<td>Infasco (CA TW JP YU) (Greater than 1/2 inch dia)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>E</td>
<td>Daiei (JP)</td>
<td>UNY</td>
<td>UNY</td>
</tr>
</tbody>
</table>

GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:

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

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

<table>
<thead>
<tr>
<th>MARK</th>
<th>MANUFACTURER</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type 1</td>
<td>A325 KS</td>
</tr>
<tr>
<td>Type 2</td>
<td>A325 KS</td>
</tr>
<tr>
<td>Type 3</td>
<td>A325 KS</td>
</tr>
</tbody>
</table>

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](http://www.saftek.com/worksafe/bull82.txt)