APPENDIX A
ARGONNE TERMS AND CONDITIONS
FOREIGN CONCERNS – PERFORMANCE OUTSIDE THE U.S.

(For Fixed Price Contracts)

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1. 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 agent. 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 to otherwise recover from the Contractor any contingent fee.

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

(c) 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. If U.S.-flag air carriers are not available or it was necessary to use foreign-flag air carrier service for the international air transportation of personnel (and their personal effects) or property, the Contractor shall obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee.

(d) “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.

2. RIGHTS TO PROPOSAL DATA (MAY 2011)

It is agreed that, as a condition of this award of the 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.

3. NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Laboratory Procurement Representative or designee, in writing, at least 10 days prior to the delivery of or, in the case of services that are non-deliverable or are to be provided at a fixed price, at the time of the contract award, of any material containing radioactive materials that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the contract set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(b) “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.

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

(d) “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.

4. 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.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. Appx 1241(b)) 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 such carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) “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.

5. 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. 731(b)(2)) requires that all Department of State agencies use only 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 –

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

(c) “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.

6. 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.

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

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

(b) The contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract or purchase order under this contract, except those described in paragraph (e).

8. REPORTS (OCT 1999)

The contractor shall furnish intermediate reports to the Laboratory from time to time requested, in such form and number as may be required by the Laboratory, summarizing activities of the Contractor and subcontractors or other persons or agencies who may be required by the Laboratory. All reports delivered to the Laboratory under this contract shall contain a signature page which will identify the persons preparing the report and the persons approving the report.

9. 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 that, in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the contractor, as the case may be, of all relevant information respecting the dispute.

10. 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.
10. SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS (OCT 2010)

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

(1) become operative 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, the Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.408, Table 15-2 (to include any information reasonably required to explain the contractor's estimating process, the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.408, Table 15-2 (to include any information reasonably required to explain the contractor's estimating process, the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.408, Table 15-2 (to include any information reasonably required to explain the contractor's estimating process, the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1 applies.

11. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (OCT 2010)

(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 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 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 or

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit, by which

(i) the actual subcontract or

(ii) 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 or

(iii) 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 or

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

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the data submitted in accordance with paragraph (b)(ii) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(B) The Laboratory proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available cost or pricing data in issue were defect-free.

12. PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA--MODIFICATIONS (OCT 2010)

(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 15.403-1 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 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 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 or

(3) Any of the parties furnishing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, or

(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 of the overpayment, if the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Laboratory Procurement Official.

13. CHANGES--FIXED PRICE (OCT 1999)

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

(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) Place of delivery.

(3) Method of shipment or packaging.

(4) Description of services to be performed.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, the performance of the contract, and the contract price therefore have been authorized in writing by the authorized Laboratory Procurement Official based upon the facts shall be allowed against the amount of the change, the authorized Laboratory Procurement Official shall have the right to prescribe the method of payment.

(c) The contractor must submit any proposal for adjustment (hereafter referred to as proposal) under this clause within 30 days from the date of receipt of the written order. However, if the contractor fails to submit a proposal within this time period, the authorized Laboratory Procurement Official may receive and act upon a proposal submitted before final payment of the contract.

(d) If the contractor's proposal includes the cost of property made obsolete or excess by the change, the authorized Laboratory Procurement Official shall have the right to prescribe the method of disposition of the property.

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

14. EXTRAS (OCT 1999)

Except as otherwise provided in this contract, no payment for extras shall be made unless extras and the price therefore have been authorized in writing by the authorized Laboratory Procurement Official.

15. 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.

When the contract requires the specification or delivery of energy consuming products for use in Federal facility, the contract price for such products or products or products conforming to the Federal Energy Management Program’s (FEMP) Energy Efficiency Requirements, whichever may be applicable, provided products with such a designation are available and are life cycle cost effective and meet applicable performance standards. Information about these products is available for EnergyStar at:

http://www.energystar.gov/products

http://www.eere.energy.gov/femp PROCUREMENT/eeq REQUIREMENTS.

When the contract requires the specification or delivery of imaging equipment (i.e., copiers, digital multifunction devices, fax machines, microfilm readers, microfilm scanners, or scanners), the contract price at FAR 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (June 2014) shall apply.

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

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (June 2014) shall apply.

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (June 2014) shall apply.

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (June 2014) shall apply.

In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and the clause at FAR 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (June 2014) shall apply.
16. RESPONSIBILITY FOR SUPPLIES (OCT 1999)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance by the Laboratory, regardless of when or where the Laboratory takes physical possession of the supplies, unless the contract otherwise provides.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the contractor until, and pass to the Government upon:

(i) Delivery to the Government of the supplies, if transportation is to be arranged by the Government;

(ii) Delivery to the Government of the supplies at the commercial destination, if transportation is to be arranged by the contractor.

(c) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent and in the manner directed by the Laboratory in its discretion, and for any reduction in the value of inspection or test samples.

(d) Disposition. The contractor shall make such disposition of Government property which has come into the possession or custody of the contractor under this contract as the Laboratory may require or permit, promptly after notice, by and at the expense of the contractor, in the manner directed by the Laboratory Procurement Representative.

(e) (1) When supplies are not ready at the time specified by the contractor for inspection or test, the Laboratory may require or permit correction in place, promptly after notice, by and at the expense of the contractor, in the manner directed by the Laboratory Procurement Representative.

(f) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent and in the manner directed by the Laboratory in its discretion, and for any reduction in the value of inspection or test samples.

(g) The contractor shall furnish the Laboratory with the name of the proposed subcontractor, a description of the work proposed to be performed under the subcontract, and a statement of the percentage of the work to be performed by the subcontractor. The Laboratory shall have the right to reject any such subcontractor.

(h) The contractor shall furnish and maintain an inspection system acceptable to the Laboratory, covering supplies under this contract, until the Laboratory has given written notice that such a system is no longer required.

(i) The Laboratory shall have the right to require the contractor (1) at no increase in the contract price, if the supplies are to be accepted, or (2) to repair or replace defective or nonconforming supplies at the contractor's expense and to the extent and in the manner directed by the Laboratory Procurement Representative.

(j) The contractor shall have the right to remove, replace, or correct the supplies and charge the cost to the contractor or (2) the supplier of the nondelivery or nonconformance.

(k) Unless the acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the acceptance shall be conclusive as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies shall remain with the contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.

(l) Under paragraph (b) above, the contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Laboratory acting within the scope of their employment.

17. INSPECTION OF SUPPLIES–FIXED-PRICE (OCT 1999)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance by the Laboratory, regardless of when or where the Laboratory takes physical possession of the supplies, unless the contract otherwise provides.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the contractor until, and pass to the Government upon:

(i) Delivery to the Government of the supplies, if transportation is to be arranged by the Government;

(ii) Delivery to the Government of the supplies at the commercial destination, if transportation is to be arranged by the contractor.

(c) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent and in the manner directed by the Laboratory in its discretion, and for any reduction in the value of inspection or test samples.

(d) Disposition. The contractor shall make such disposition of Government property which has come into the possession or custody of the contractor under this contract as the Laboratory may require or permit, promptly after notice, by and at the expense of the contractor, in the manner directed by the Laboratory Procurement Representative.

(e) (1) When supplies are not ready at the time specified by the contractor for inspection or test, the Laboratory may require or permit correction in place, promptly after notice, by and at the expense of the contractor, in the manner directed by the Laboratory Procurement Representative.

(f) The Laboratory has the right to inspect and test all supplies called for by the contract, to the extent and in the manner directed by the Laboratory in its discretion, and for any reduction in the value of inspection or test samples.

(g) The contractor shall furnish the Laboratory with the name of the proposed subcontractor, a description of the work proposed to be performed under the subcontract, and a statement of the percentage of the work to be performed by the subcontractor. The Laboratory shall have the right to reject any such subcontractor.

(h) The contractor shall furnish and maintain an inspection system acceptable to the Laboratory, covering supplies under this contract, until the Laboratory has given written notice that such a system is no longer required.

(i) The Laboratory shall have the right to require the contractor (1) at no increase in the contract price, if the supplies are to be accepted, or (2) to repair or replace defective or nonconforming supplies at the contractor's expense and to the extent and in the manner directed by the Laboratory Procurement Representative.

(j) The contractor shall have the right to remove, replace, or correct the supplies and charge the cost to the contractor or (2) the supplier of the nondelivery or nonconformance.

(k) Unless the acceptance is not conclusive for any of the reasons in paragraph (k) hereof, the acceptance shall be conclusive as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies shall remain with the contractor until cure or acceptance. After cure or acceptance, paragraph (b) above shall apply.

(l) Under paragraph (b) above, the contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Laboratory acting within the scope of their employment.

18. PERMITS OR LICENSES (OCT 1999)

Except as otherwise directed by the Laboratory, the contractor shall procure all necessary permits or licenses as required by the terms and conditions of the contract and (ii) when the supplies will be ready for delivery.
The contractor shall include this clause in all cost reimbursable subcontracts.

Property Management.

A separate and complete major industrial operation in connection with the performance of any function or activity of the contractor for the Laboratory, or any other rare or association, under the contract, shall take all reasonable steps to protect the property remaining, and shall maintain and administer in accordance with sound business practice, applicable Federal Property Management regulations (41 CFR chapter 109), and other applicable regulations.

The contractor shall furnish a list of project personnel to the Laboratory for approval and the contractor shall not be required to comply with any appropriate written direction of the Laboratory Procurement Representative to safeguard such property under paragraph (e) of this clause; or

The contractor shall not be required to comply with any appropriate written direction of the Laboratory Procurement Representative to safeguard such property under paragraph (e) of this clause; or

The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for the acquisition of personal property, services and construction or architect-engineer services under FAR Part 38; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

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

The contractor shall furnish a list of project personnel to the Laboratory for approval and the contractor shall not be required to comply with any appropriate written direction of the Laboratory Procurement Representative to safeguard such property under paragraph (e) of this clause; or

The contractor shall not be required to comply with any appropriate written direction of the Laboratory Procurement Representative to safeguard such property under paragraph (e) of this clause; or

The contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for the acquisition of personal property, services and construction or architect-engineer services under FAR Part 38; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products.

This clause applies to all subcontracts that exceed $150,000.
29. ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) (1) The Laboratory may, subject to paragraphs (c) and (d) below, by written notice of default or by action taken to terminate this contract in whole or in part if the contractor fails to—
   (i) Deliver the supplies or to perform the services within the time specified in this contract or any extension,
   (ii) Make progress, so as to endanger performance of this contract (but see subparagraph (a)(2) below), or
   (iii) Perform any of the other provisions of this contract (but see subparagraph (a)(2) below).

(b) The Laboratory’s right to terminate this contract under subdivisions (1)(i) and (1)(ii) above, may be exercised if the contractor does not cure such failure within 10 days of any such notice by the Laboratory.

(c) Except for defaults of subcontractors at any tier, the contractor shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the contractor. Examples of such causes include (1) acts of God or the 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, (8) freight embargoes, and (9) conditions physically severe beyond the control of the contractor and without the fault or negligence of the contractor.

(d) If the contractor fails to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the contractor and subcontractor, and without the fault or negligence of either, the contractor shall not be liable for any excess costs for failure to perform, unless the subcontractor’s supplies or services were obtained from other sources in sufficient time for the contractor to meet the required delivery schedule.

(e) If this contract is terminated for default, the Laboratory may require the contractor to transfer title and deliver to the Laboratory, as directed by the Laboratory, any
   (1) completed supplies, and
   (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as “manufacturing materials”), and
   (3) any equipment (including computer software) specifically produced or acquired for the terminated portion of this contract. Upon direction of the Laboratory, the contractor shall also protect and preserve property in its possession in which the Laboratory or the Government has an interest.

(f) The Laboratory shall pay the contract price for completed supplies delivered and accepted. The contractor and the Laboratory shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property. The Laboratory may withhold from these amounts any sum the Laboratory determines to be necessary to protect the Laboratory against loss because of failing to perform or permits connection with any discount offered.

(g) If, at the time of termination, it is determined that the contractor was not in default or that the default was excusable, the rights, obligations and the parties’ liabilities shall be the same as if the termination had been for the convenience of the Laboratory.

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

29. ANTI-KICKBACK PROCEDURES (MAY 2014)

(a) “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.

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

(c) “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.

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

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

(f) “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 or a subcontract entered into in connection with such prime contract, and includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

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

(h) “Contractor,” as used in this clause, means any person, firm, association, company, authority, or governmental agency which is engaged in the performance of the contract with the United States.

(i) “Covered Federal action” means any of the following actions:
   (1) Awarding any Federal contract.
   (2) Making any Federal loan.
   (3) Making any Federal grant.

(j) “Indirectly” includes, but is not limited to, any effort to influence any communication to or appearance before an employee or officer of any agency, a Member of Congress, or any employee of Congress to act or any attempt to cause such a person to act in any way that may or may not result in the performance of the contract in violation of any law or regulation.

(k) “Tribal organization” means the kind of organization as defined in section 319 of the Indian Self- Determination and Education Assistance Act (25 U.S.C. 450b) and includes Alaska Native Natives.

(l) “Tribal organization” means the kind of organization as defined in section 319 of the Indian Self- Determination and Education Assistance Act (25 U.S.C. 450b) and includes Alaska Native Natives.

(m) “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.

(n) “Indirectly” includes, but is not limited to, any effort to influence any communication to or appearance before an employee or officer of any agency, a Member of Congress, or any employee of Congress to act or any attempt to cause such a person to act in any way that may or may not result in the performance of the contract in violation of any law or regulation.

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from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

"Reasonable compensation" means, with respect to a regularly employed employee of the Government, compensation that is consistent with the normal compensation for such employee or employee of the Government who is not regularly employed but is furnished in connection with the performance of the Federal Government.

"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.

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

"Regularly employed" means, with respect to an employee of a person, an employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An employee of a person who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that 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 multi-State, regional, or interstate entity having separate governmental functions and powers.

(b) Prohibition. 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of the contract.

(ii) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission.

Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking to enter into a Federal contract or cooperative agreement, or to receive a loan from an agency, as defined in the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(2) Professional and technical services.

(i) Payment of reasonable compensation made to an officer or employee of the Contractor by the Government for any agency and legislative liaison activities directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Payment of reasonable compensation made to an officer or employee of the Contractor who has other than a minimal impact or involvement in contract administration.

(ii) The Contractor shall obtain a declaration, including the certification and disclosure in paragraph (c) of this clause; and

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

(4) Suspension or debarment.

(i) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates its policy and

(ii) Any actions taken against Contractor employees, subcontractors, or subcontractor employees.

(iii) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of this paragraph may result in:

(1) The Contractor shall provide the information described in this paragraph to the Contractor's employee or employees.

(2) The Contractor's failure to take such action shall be considered a default under the contract.

(3) Suspension of the contract or subcontract.

(4) The Contractor shall submit the information described in this paragraph to the Government.

(5) The remedy is this paragraph is in addition to other remedies available to the Government.

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

Applies To Contracts That Exceed $30,000 In Value

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

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

(A) A COTS item as defined in FAR 41.101; and

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

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1792), such as agricultural products and petroleum products.

(b) The Contractor shall be responsible for suspending or debaring Contractors or subcontractors. Other than a subcontractor for a commercially available off-the-shelf item, the Contractor shall not enter into a subcontract in excess of $30,000.00 for the sale of equipment or services that is proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed $200,000.00 from a Contractor incurring a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Laboratory Procurement Representing Officials of the contract, in writing, before entering into a subcontract with a party other than a subcontractor providing a commercially available off-the-shelf item that is debarred, suspended, or proposed for debarment. The Contractor shall provide the Laboratory with a copy of the information in the Award Management System (AMS). The notice must include the following:

1. The name of the subcontractor;
2. The contractor’s knowledge of the reasons for the subcontractor being in the SAM;
3. The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government’s interests when dealing with such a subcontractor in view of the subcontractor’s debarment status or proposed debarment.

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

1. Exceed $30,000 in value; and
2. Is not a subcontract for commercially available off-the-shelf items.

37. RESEARCH MISCONDUCT (JUL 2005)

(a) The contractor is responsible for maintaining the integrity of research performed pursuant to this contract award including the prevention, detection, and remediation of research misconduct as described by this clause and the conduct of inquiries, investigations and notices of allegations of research misconduct in accordance with the requirements of this clause.

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

1. Conduct an investigation to develop a complete factual record and an examination of the record to determine whether a finding of research misconduct is warranted; and identify the appropriate remedies or a determination that no further action is warranted;

2. If an investigation reveals an investigation of research misconduct, conduct an investigation by a good faith officer, who was not involved in the inquiry or investigation and is separated organizationally from the element which conducted the investigation. The investigation must include a review of the investigatory records and, as warranted, a determination of appropriate corrective actions and sanctions.

3. Inform the LPO if an initial inquiry supports a formal investigation and, if requested by the LPO, the contractor shall provide the LPO with the results of the investigation and any subsequent adjudication. When an adjudication is complete, the contractor will forward to the LPO a copy of the investigatory record and any recommendations made to the contractor’s adjudicating official, the adjudicating official’s decision and notification of any corrective action taken or proposed.

(c) The Laboratory may elect to act in lieu of the contractor in conducting an inquiry or investigation of research misconduct if the Laboratory determines that—

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

2. Laboratory involvement is necessary to ensure the public health, safety, and security, or to prevent harm to the public interest; or

3. The allegation involves possible criminal misconduct.

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

1. Safeguards for information and subjects of allegations. The contractor shall provide safeguards to ensure that individuals may bring allegations of research misconduct must be handled in good faith, and that no investigator or investigator without suffering retaliation.

Safeguards include: protection against retaliation; fair and objective policies and procedures for evidentiary and remedial issues. The Laboratory must abide by all export control laws and regulations, and shall indemnify and hold the Department of Energy, UChicago Argonne, LLC, and the Laboratory harmless from any liability that may arise for any such violation.

38. EXPORT LICENSE AGREEMENT (AUG 2002)

The contractor understands that the materials and information being transmitted under the performance of this contract may be subject to U.S. Government laws and regulations regarding the export of export-controlled and export-sensitive information and technologies. Any export of such materials is subject to the Export Control Regulations of the U.S. Department of Commerce.

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

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

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

To transfer the information, technology, and/or commodities, the contractor must ensure that you submit the information, technology, and/or commodities to the appropriate regulatory office for export classification and obtain any required licenses. In addition, the contractor must ensure that you obtain a permit or license to support assigned DOE missions and activities associated with the classification.

Any work undertaken by the contractor without such decision shall be at the contractor’s own risk.

39. LIMITATIONS PERIOD (MAY 2001)

Any action brought by the contractor for breach of contract, request for equitable adjustment, or any other claim arising under the contract or after the cause of action has arisen, whichever occurs first, otherwise the contractor’s obligation to obtain all appropriate export licenses, keep required records, and comply fully with all export control statutes and regulations. Unless authorized by appropriate government license or regulation, contractor agrees to not export directly or indirectly any technology, software or materials that is subject to export control or regulation, or as otherwise prohibited by law.

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

1. Fundamental research, and information resulting from fundamental research
2. Published information and software (publicly available) education information
3. Patent applications
4. 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.

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Any work undertaken by the contractor without such decision shall be at the contractor’s own risk.

40. INTEGRATION CLAUSE (MAY 2001)

This contract represents the full understanding of the parties and is the 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.

43. 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 operations, selecting technical standards, or otherwise involved with the development, the contractor shall:

(a) Follow all applicable DOE regulations and procedures, and the Department of Energy Technical Standards, conducting technical standards review operations, selecting technical standards, or otherwise involved with the development,

(b) Adhere to appropriate voluntary consensus standards (VCSs), except where use of VCSs is inconsistent with law or impractical. (Note: VCSs are defined as standards...
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.

44. SUSPECT COUNTERFEIT PARTS (DEC 2007)

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

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

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

GRADE 5 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

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GRADE 8 FASTENERS WITH THE FOLLOWING MANUFACTURERS' HEADMARKS:

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<td>A</td>
<td>Asahi Mfg. (JP)</td>
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<td>NF</td>
<td>Nippon Fasteners (JP)</td>
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<td>H</td>
<td>Hinomoto Metal (JP)</td>
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<td>M</td>
<td>Minamida Siyobo (JP)</td>
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<td>Minato Kogyo (JP)</td>
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<td>Hollow Triangle Infasco (CA TW JP YU) (Greater than 1/2 inch dia)</td>
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GRADE 8.2 FASTENERS WITH THE FOLLOWING HEADMARKS:

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

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<td>A325 KS Kosaka Kogyo (JP)</td>
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<td>Type 2</td>
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<td>Type 3</td>
<td>A325 KS</td>
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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