

PART II –CONTRACT CLAUSES

SECTION I

TABLE OF CONTENTS

I.1	FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)	8
I.2	FAR 52.202-1 DEFINITIONS (NOV 2013)	8
I.3	FAR 52.203-3 GRATUITIES (APR 1984)	8
I.4	FAR 52.203-5 COVENANT AGAINST CONTINGENT FEES (MAY 2014).....	8
I.5	FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEPT 2006).....	8
I.6	FAR 52.203-7 ANTI-KICKBACK PROCEDURES (MAY 2014).....	8
I.7	FAR 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)	8
I.8	FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014).....	8
I.9	FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)	8
I.10	FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APRIL 2010)	8
I.11	FAR 52.203-14 DISPLAY OF HOTLINE POSTER (S) (DEC 2007).....	8
I.12	FAR 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYESS WHISTLEBLOWER RIGHTS (APR 2014)	9
I.13	FAR 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)	9
I.14	FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)	9
I.15	FAR 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUL 2013)	9
I.16	FAR 52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (JUL 2013)	9
I.17	FAR 52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (JAN 2014) 9	
I.18	FAR 52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (NOV 2014).....	9

I.19	FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (AUG 2013)	9
I.20	FAR 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013).....	9
I.21	FAR 52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (MAY 2012).....	9
I.22	FAR 52.210-1 MARKET RESEARCH (APR 2011)	9
I.23	FAR 52.215-2 AUDIT AND RECORDS – NEGOTIATION (OCT 2010).....	9
I.24	FAR 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)	9
I.25	FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA- MODIFICATIONS (AUG 2011)	9
I.26	FAR 52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA – MODIFICATIONS (OCT 2010)	9
I.27	FAR 52.215-14 INTEGRITY OF UNIT PRICES (OCT 2010)	10
I.28	FAR 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2010)	10
I.29	FAR 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)	10
I.30	FAR 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005)	10
I.31	FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997).....	10
I.32	FAR 52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA –MODIFICATIONS (OCT 2010) ALTERNATE III (OCT 1997).....	10
I.33	FAR 52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES (OCT 2009)	10
I.34	FAR 52.216-7 ALLOWABLE COST AND PAYMENT (JUN 2013) MODIFIED BY DEAR 952.216-7	10
I.35	FAR 52.217-2 CANCELLATION UNDER MULTI-YEAR CONTRACTS (OCT 1997)	10
I.36	FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)	10
I.37	FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)	10
I.38	FAR 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (OCT 2014)	10
I.39	FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014).....	11

I.40	FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2014), ALTERNATE II (OCT 2001).....	11
I.41	FAR 52.219-16 LIQUIDATED DAMAGES – SUBCONTRACTING PLAN (JAN 1999)	11
I.42	FAR 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JULY 2013)	11
I.43	FAR 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)	11
I.44	FAR 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JULY 1990)	11
I.45	FAR 52.222-3 CONVICT LABOR (JUN 2003)	11
I.46	FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS - OVERTIME COMPENSATION (MAY 2014).....	11
I.47	FAR 52.222-5 CONTRACT WORK HOURS AND SAFETY STANDARDS — OVERTIME COMPENSATION (MAY 2014).....	11
I.48	FAR 52.222-6 CONSTRUCTION WAGE RATE REQUIREMENTS (MAY 2014)	11
I.49	FAR 52.222-7 WITHHOLDING OF FUNDS (MAY 2014).....	11
I.50	FAR 52.222-8 PAYROLLS AND BASIC RECORDS (MAY 2014).....	11
I.51	FAR 52.222-9 APPRENTICES AND TRAINEES (JULY 2005).....	11
I.52	FAR 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1998).....	11
I.53	FAR 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (MAY 2014).....	11
I.54	FAR 52.222-12 CONTRACT TERMINATION – DEBARMENT (MAY 2014)	11
I.55	FAR 52.222-13 COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS (MAY 2014).....	11
I.56	FAR 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1998).....	11
I.57	FAR 52.222-15 CERTIFICATION OF ELEGIBILITY (MAY 2014)	11
I.58	FAR 52.222-16 APPROVAL OF WAGE RATES (MAY 2014).....	12
I.59	FAR 52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014) ..	12
I.60	FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)	12
I.61	FAR 52.222-26 EQUAL OPPORTUNITY (MAR 2007)	12
I.62	FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUL 2014)	12
I.63	FAR 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014).....	12
I.64	FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUL 2014).....	12

I.65	FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)	12
I.66	FAR 52.222-41 SERVICES CONTRACT LABOR STANDARDS (MAY 2014)	12
I.67	FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014).....	12
I.68	FAR 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS-PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014)	13
I.69	FAR 52.222-50 COMBATING TRAFFICING IN PERSONS (FEB 2009).....	13
I.70	FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013).....	13
I.71	FAR 52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEPT 2013).....	13
I.72	FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997), ALTERNATE I (JUL 1995).....	13
I.73	FAR 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011).....	13
I.74	FAR 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)	13
I.75	FAR 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED ITEMS (MAY 2008).....	13
I.76	FAR 52.223-10 WASTE REDUCTION PROGRAM (MAY 2011).....	14
I.77	FAR 52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007).....	14
I.78	FAR 52.223-16 ACQUISITION OF EPEAT-REGISTERED PERSONAL COMPUTER PRODUCTS (JUN 2014).....	14
I.79	FAR 52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008).....	14
I.80	FAR 52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)	14
I.81	FAR 52.223-19 COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011).....	14
I.82	FAR 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)	14
I.83	FAR 52.224-2 PRIVACY ACT (APR 1984)	14
I.84	FAR 52.225-1 BUY AMERICAN-SUPPLIES (MAY 2014)	14
I.85	FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)	14
I.86	FAR 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007).....	14

I.87	FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)	15
I.88	FAR 52.227-3 PATENT INDEMNITY (APR 1984).....	15
I.89	FAR 52.227-14 RIGHTS IN DATA – GENERAL (MAY 2014).....	15
I.90	FAR 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUNE 1987)	15
I.91	FAR 52.230-2 COST ACCOUNTING STANDARDS (MAY 2014).....	15
I.92	FAR 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUNE 2010)	15
I.93	FAR 52.232-17 INTEREST (MAY 2014).....	15
I.94	FAR 52.232-18 AVAILABILITY OF FUNDS (APR 1984)	15
I.95	FAR 52.232-23 ASSIGNMENT OF CLAIMS (MAY 2014)	15
I.96	FAR 52.232-25 PROMPT PAYMENT (JUL 2013).....	15
I.97	FAR 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER – SYSTEM FOR AWARD MANAGEMENT (JUL 2013).....	15
I.98	FAR 52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013)	15
I.99	FAR 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013).....	15
I.100	FAR 52.233-1 DISPUTES (MAY 2014) ALTERNATE I (DEC 1991)	15
I.101	FAR 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)	15
I.102	FAR 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984).....	15
I.103	FAR 52.237-3 CONTINUITY OF SERVICES (JAN 1991).....	16
I.104	FAR 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)	16
I.105	FAR 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)	16
I.106	FAR 52.242-13 BANKRUPTCY (JUL 1995).....	16
I.107	FAR 52.244-2 SUBCONTRACTS (OCT 2010)	16
I.108	FAR 52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)	16
I.109	FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2014)	16
I.110	FAR 52.245-1 GOVERNMENT PROPERTY (APR 2012)	16
I.111	FAR 52.245-9 USE AND CHARGES (APR 2012).....	31
I.112	FAR 52.246-25 LIMITATION OF LIABILITY – SERVICES (FEB 1997).....	31
I.113	FAR 52.247-67 SUBMISSION OF TRANSPORTATION DOCUMENTS FOR AUDIT (FEB 2006).....	31

I.114	FAR 52.248-1 VALUE ENGINEERING (OCT 2010)	31
I.115	FAR 52.251-1 GOVERNMENT SUPPLY SOURCES (APR 2012)	32
I.116	FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)	32
I.117	FAR 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)	32
I.118	DEAR 952.202-1 DEFINITIONS (MAR 2011)	32
I.119	DEAR 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)	32
I.120	DEAR 952.204-2 SECURITY (MAR 2011)	32
I.121	DEAR 952.204-75 PUBLIC AFFAIRS (DEC 2000)	36
I.122	DEAR 952.204-77 COMPUTER SECURITY (AUG 2006)	37
I.123	DEAR 952.208-70 PRINTING (APR 1984)	38
I.124	DEAR DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009) AND ALTERNATE I (FEB 2011)	39
I.125	DEAR 952.215-70 KEY PERSONNEL (DEC 2000)	41
I.126	DEAR 952.223-71 INTEGRATION OF ENVIRONMENT, SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION (DEC 2000)	42
I.127	DEAR 952.223-72 RADIATION PROTECTION AND NUCLEAR CRITICALITY (APR 1984)	45
I.128	DEAR 952.223-75 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (APR 1984)	45
I.129	DEAR 952.223-76 CONDITIONAL PAYMENT OF FEE OR PROFIT — SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION AND PROTECTION OF WORKER SAFETY AND HEALTH [DEC 2010]	45
I.130	DEAR 952.223-77 CONDITIONAL PAYMENT OF FEE OR PROFIT – PROTECTION OF WORKER SAFETY AND HEALTH (DEC 2010)	50
I.131	DEAR 952.223-78 SUSTAINABLE ACQUISITION PROGRAM (OCT 2010)	53
I.132	DEAR 952.226-74 DISPLACED EMPLOYEES HIRING PREFERENCE (JUN 1997)	55
I.133	DEAR 952.227-82 RIGHTS TO PROPOSAL DATA (APR 1994)	56
I.134	DEAR 952.231-71 INSURANCE – LITIGATION AND CLAIMS (JUL 2013)	56
I.135	DEAR 952.242-70 TECHNICAL DIRECTION (DEC 2000)	58
I.136	DEAR 952.247-70 FOREIGN TRAVEL (JUN 2010)	59
I.137	DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (JUN 1996)	59
I.138	DEAR 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNT (AUG 2009)	63

I.139	DEAR 970.5204-2 LAWS, REGULATIONS AND DOE DIRECTIVES (DEC 2000) ..	64
I.140	DEAR 970.5204-3 ACCESS TO AND OWNERSHIP OF RECORDS (OCT 2014).....	66
I.141	DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010)	68
I.142	FAR 52.228-5 INSURANCE- WORK ON A GOVERNMENT INSTALLATION (JAN 1997)	69
I.143	FAR 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)	69
I.144	FAR 52.232-1 PAYMENTS (APR 1984)	69
I.145	FAR 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002).....	69
I.146	FAR 52.232-11 EXTRAS (APR 1984)	69
I.147	FAR 52.232-16 PROGRESS PAYMENTS (JUL 2009)	69
I.148	FAR 52.233-3 PROTEST AFTER AWARD (AUG 1996)	69
I.149	FAR 52.243-1 CHANGES- FIXED PRICE (AUG 1987), ALTERNATE II (APR 1984)	69
I.150	FAR 52.245-1 GOVERNMENT PROPERTY (APR 2012), ALTERNATE I (APR 2012)	69
I.151	FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012).....	69
I.152	FAR 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)	69
I.153	FAR 52.228-7 INSURANCE-LIABILITY TO THIRD PERSONS (MAR 1996).....	70
I.154	FAR 52.232-22 LIMITATION OF FUNDS (APR 1984)	70
I.155	FAR 52.232-25 PROMPT PAYMENT (JUL 2013) - ALTERNATE I (FEB 2002)	70
I.156	FAR 52.233-3 PROTEST AFTER AWARD (AUG 1996) – ALTERNATE I (JUNE 1985)	70
I.157	FAR 52.242-3 PENALTIES FOR UNALLOWABLE COSTS (MAY 2014)	70
I.158	FAR 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)	70
I.159	FAR 52.243-2 CHANGES- COST REIMBURSEMENT (AUG 1987), ALTERNATE I (APR 1984)	70
I.160	FAR 52.244-2 SUBCONTRACTS (OCT 2010) ALTERNATE I (JUNE 2007).....	70
I.161	FAR 52.249-6 TERMINATION (COST REIMBURSEMENT) (MAY 2004).....	70
I.162	FAR 52.249-14 EXCUSABLE DELAYS (APR 1984).....	70
I.163	FAR 52.251-2 INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES (JAN 1991)	70

SECTION I

CONTRACT CLAUSES

I.1 FAR 52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address: <https://www.acquisition.gov/far/>

I.2 FAR 52.202-1 DEFINITIONS (NOV 2013)

I.3 FAR 52.203-3 GRATUITIES (APR 1984)

I.4 FAR 52.203-5 COVENANT AGAINST CONTINGENT FEES (MAY 2014)

I.5 FAR 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEPT 2006)

I.6 FAR 52.203-7 ANTI-KICKBACK PROCEDURES (MAY 2014)

I.7 FAR 52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)

I.8 FAR 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (MAY 2014)

I.9 FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

I.10 FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APRIL 2010)

I.11 FAR 52.203-14 DISPLAY OF HOTLINE POSTER (S) (DEC 2007)

(b)3) DOE IG Hotline Poster:

http://energy.gov/sites/prod/files/igprod/documents/Hotline_poster.pdf

- I.12 FAR 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES WHISTLEBLOWER RIGHTS (APR 2014)**
- I.13 FAR 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON POSTCONSUMER FIBER CONTENT PAPER (MAY 2011)**
- I.14 FAR 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (JAN 2011)**
- I.15 FAR 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUL 2013)**
- I.16 FAR 52.204-13 SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (JUL 2013)**
- I.17 FAR 52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (JAN 2014)**
- I.18 FAR 52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (NOV 2014)**
- I.19 FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (AUG 2013)**
- I.20 FAR 52.209-9 UPDATES OF PUBLICLY AVAILABLE INFORMATION REGARDING RESPONSIBILITY MATTERS (JUL 2013)**
- I.21 FAR 52.209-10 PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS (MAY 2012)**
- I.22 FAR 52.210-1 MARKET RESEARCH (APR 2011)**
- I.23 FAR 52.215-2 AUDIT AND RECORDS – NEGOTIATION (OCT 2010)**
- I.24 FAR 52.215-8 ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997)**
- I.25 FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA- MODIFICATIONS (AUG 2011)**
- I.26 FAR 52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA – MODIFICATIONS (OCT 2010)**

- I.27 FAR 52.215-14 INTEGRITY OF UNIT PRICES (OCT 2010)**
- I.28 FAR 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2010)**
- I.29 FAR 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)**
- I.30 FAR 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005)**
- I.31 FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)**
- I.32 FAR 52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA – MODIFICATIONS (OCT 2010) ALTERNATE III (OCT 1997)**
- I.33 FAR 52.215-23 LIMITATIONS ON PASS-THROUGH CHARGES (OCT 2009)**
- I.34 FAR 52.216-7 ALLOWABLE COST AND PAYMENT (JUN 2013) MODIFIED BY DEAR 952.216-7**
- I.35 FAR 52.217-2 CANCELLATION UNDER MULTI-YEAR CONTRACTS (OCT 1997)**
- I.36 FAR 52.217-8 OPTION TO EXTEND SERVICES (NOV 1999)**
- I.37 FAR 52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)**
- (a) The Government may extend the term of this contract by written notice to the Contractor within **30 days before the contract expires**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least **60 days** before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **five years**.
- I.38 FAR 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (OCT 2014)**

- I.39 FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2014)**
- I.40 FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2014),
ALTERNATE II (OCT 2001)**
- I.41 FAR 52.219-16 LIQUIDATED DAMAGES – SUBCONTRACTING PLAN (JAN
1999)**
- I.42 FAR 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM
REREPRESENTATION (JULY 2013)**
- I.43 FAR 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB
1997)**
- I.44 FAR 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JULY 1990)**
- I.45 FAR 52.222-3 CONVICT LABOR (JUN 2003)**
- I.46 FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS -
OVERTIME COMPENSATION (MAY 2014)**
- I.47 FAR 52.222-5 CONTRACT WORK HOURS AND SAFETY STANDARDS —
OVERTIME COMPENSATION (MAY 2014)**
- I.48 FAR 52.222-6 CONSTRUCTION WAGE RATE REQUIREMENTS (MAY 2014)**
- I.49 FAR 52.222-7 WITHHOLDING OF FUNDS (MAY 2014)**
- I.50 FAR 52.222-8 PAYROLLS AND BASIC RECORDS (MAY 2014)**
- I.51 FAR 52.222-9 APPRENTICES AND TRAINEES (JULY 2005)**
- I.52 FAR 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB
1998)**
- I.53 FAR 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (MAY 2014)**
- I.54 FAR 52.222-12 CONTRACT TERMINATION – DEBARMENT (MAY 2014)**
- I.55 FAR 52.222-13 COMPLIANCE WITH CONSTRUCTION WAGE RATE
REQUIREMENTS AND RELATED REGULATIONS (MAY 2014)**
- I.56 FAR 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1998)**
- I.57 FAR 52.222-15 CERTIFICATION OF ELEGIBILITY (MAY 2014)**

- I.58 FAR 52.222-16 APPROVAL OF WAGE RATES (MAY 2014)**
- I.59 FAR 52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014)**
- I.60 FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)**
- I.61 FAR 52.222-26 EQUAL OPPORTUNITY (MAR 2007)**
- I.62 FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUL 2014)**
- I.63 FAR 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)**
- I.64 FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUL 2014)**
- I.65 FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)**
- I.66 FAR 52.222-41 SERVICES CONTRACT LABOR STANDARDS (MAY 2014)**
- I.67 FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014)**

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:
 It is not a Wage Determination*

<u>Equivalent Rates</u>	<u>Grades</u>	<u>Salary</u>	
		Paducah	Piketon
Accounting Clerk III	GS-5	14.24	14.24
Administrative Assistance	GS-7	17.64	17.64
Document Preparation Clerk	GS-3	11.34	11.34
General Clerk III	GS-4	12.73	12.73
Order Clerk II	GS-3	11.34	11.34
Personnel Assistant (Employment)III	GS-6	15.88	15.88
Technical Instructor	GS-7	17.64	17.64
Technical Instructor /Course Developer	GS-9	21.58	21.58
Material Coordinator	WG-7	18.58	19.16
Shipping/Receiving Clerk	WG-4	15.20	15.24

Truck Driver, Light	WG-6	17.50	17.84
Truck Driver, Medium	WG-7	18.58	19.16
Truck Driver, Heavy	WG-8	19.79	20.44
Electrician, Maintenance	WG 10	21.91	22.82
General Maintenance Worker	WG-8	19.79	20.44
Instrument Mechanic	WG-10	21.91	22.82
Laborer	WG-2	12.55	12.63

I.68 FAR 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS-PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014)

I.69 FAR 52.222-50 COMBATING TRAFFICING IN PERSONS (FEB 2009)

I.70 FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013)

I.71 FAR 52.223-2 AFFIRMATIVE PROCUREMENT OF BIOBASED PRODUCTS UNDER SERVICE AND CONSTRUCTION CONTRACTS (SEPT 2013)

(c) The environmental point of contact for this contract is TBD . [Contracting Officer shall insert full name, phone number, and email address. In addition, the Contracting Officer may include the agency Web site for reporting.]

I.72 FAR 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997), ALTERNATE I (JUL 1995)

(b) The Offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert "None")	Identification No.
<u>Aqueous Hydrogen Fluoride</u>	<u>CAS# 7664-39-3</u>
_____	_____
_____	_____

I.73 FAR 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (MAY 2011)

I.74 FAR 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)

I.75 FAR 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED ITEMS (MAY 2008)

(a) Definitions. As used in this clause—

“Postconsumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall—

(1) Estimate the percentage of the total recovered material content for EPA-designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to _____ [*Contracting Officer complete in accordance with agency procedures*].

I.76 FAR 52.223-10 WASTE REDUCTION PROGRAM (MAY 2011)

I.77 FAR 52.223-15 ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

I.78 FAR 52.223-16 ACQUISITION OF EPEAT-REGISTERED PERSONAL COMPUTER PRODUCTS (JUN 2014)

I.79 FAR 52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)

I.80 FAR 52.223-18 ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

I.81 FAR 52.223-19 COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)

I.82 FAR 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)

I.83 FAR 52.224-2 PRIVACY ACT (APR 1984)

I.84 FAR 52.225-1 BUY AMERICAN-SUPPLIES (MAY 2014)

I.85 FAR 52.225-13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUNE 2008)

I.86 FAR 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

- I.87 FAR 52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)**
- I.88 FAR 52.227-3 PATENT INDEMNITY (APR 1984)**
- I.89 FAR 52.227-14 RIGHTS IN DATA – GENERAL (MAY 2014)**
- I.90 FAR 52.227-23 RIGHTS TO PROPOSAL DATA (TECHNICAL) (JUNE 1987)**

Except for data contained on pages _____, it is agreed that as a condition of award of this contract, and notwithstanding the conditions of any notice appearing thereon, the Government shall have unlimited rights (as defined in the “Rights in Data—General” clause contained in this contract) in and to the technical data contained in the proposal dated _____, upon which this contract is based.
- I.91 FAR 52.230-2 COST ACCOUNTING STANDARDS (MAY 2014)**
- I.92 FAR 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUNE 2010)**
- I.93 FAR 52.232-17 INTEREST (MAY 2014)**
- I.94 FAR 52.232-18 AVAILABILITY OF FUNDS (APR 1984)**
- I.95 FAR 52.232-23 ASSIGNMENT OF CLAIMS (MAY 2014)**
- I.96 FAR 52.232-25 PROMPT PAYMENT (JUL 2013)**
- I.97 FAR 52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER – SYSTEM FOR AWARD MANAGEMENT (JUL 2013)**
- I.98 FAR 52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUN 2013)**
- I.99 FAR 52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)**
- I.100 FAR 52.233-1 DISPUTES (MAY 2014) ALTERNATE I (DEC 1991)**
- I.101 FAR 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)**
- I.102 FAR 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)**

- I.103 FAR 52.237-3 CONTINUITY OF SERVICES (JAN 1991)**
- I.104 FAR 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)**
- I.105 FAR 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)**
- I.106 FAR 52.242-13 BANKRUPTCY (JUL 1995)**
- I.107 FAR 52.244-2 SUBCONTRACTS (OCT 2010)**
- I.108 FAR 52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)**
- I.109 FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2014)**
- I.110 FAR 52.245-1 GOVERNMENT PROPERTY (APR 2012)**

(a) *Definitions.* As used in this clause—

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

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

“Contractor inventory” means—

- (1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;
- (2) Any property that the Government is obligated or has the option to take over under any type of contract, *e.g.*, as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and
- (3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

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

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

- (2) All or substantially all of the Contractor's operation at any one plant or separate location; or
- (3) A separate and complete major industrial operation.

"Demilitarization" means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

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

"Equipment" means a tangible item that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use. Equipment does not include material, real property, special test equipment or special tooling.

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

"Government property" means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property. Government property includes material, equipment, special tooling, special test equipment, and real property. Government property does not include intellectual property and software.

"Loss of Government property" means unintended, unforeseen or accidental loss, damage or destruction to Government property that reduces the Government's expected economic benefits of the property. Loss of Government property does not include purposeful destructive testing, obsolescence, normal wear and tear or manufacturing defects. Loss of Government property includes, but is not limited to—

- (1) Items that cannot be found after a reasonable search;
- (2) Theft;
- (3) Damage resulting in unexpected harm to property requiring repair to restore the item to usable condition; or
- (4) Destruction resulting from incidents that render the item useless for its intended purpose or beyond economical repair.

“Material” means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end item. Material does not include equipment, special tooling, special test equipment or real property.

“Nonseverable” means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

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

“Production scrap” means unusable material resulting from production, engineering, operations and maintenance, repair, and research and development contract activities. Production scrap may have value when re-melted or reprocessed, e.g., textile and metal clippings, borings, and faulty castings and forgings.

“Property” means all tangible property, both real and personal.

“Property Administrator” means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

“Property records” means the records created and maintained by the contractor in support of its stewardship responsibilities for the management of Government property.

“Provide” means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

“Real property” See Federal Management Regulation 102-71.20 (41 CFR 102-71.20).

“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 include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

“Unit acquisition cost” means—

- (1) For Government-furnished property, the dollar value assigned by the Government and identified in the contract; and
- (2) For contractor-acquired property, the cost derived from the Contractor’s records that reflect consistently applied generally accepted accounting principles.

(b) *Property management.*

- (1) The Contractor shall have a system of internal controls to manage (control, use, preserve, protect, repair, and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective and efficient control of Government property. The Contractor shall disclose any significant changes to its property management system to the Property Administrator prior to implementation of the changes. The Contractor may employ customary commercial practices, voluntary consensus standards, or industry-leading practices and standards that provide effective and efficient Government property management that are necessary and appropriate for the performance of this contract (except where inconsistent with law or regulation).
- (2) The Contractor's responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, sale (as surplus property), or other disposition, or via a completed investigation, evaluation, and final determination for lost property. This requirement applies to all Government property under the Contractor's accountability, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(v) of this clause).
- (3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.
- (4) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness and shall perform periodic internal reviews, surveillances, self assessments, or audits. Significant findings or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(c) *Use of Government property.*

- (1) The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Contracting Officer.
- (2) Modifications or alterations of Government property are prohibited, unless they are—
 - (i) Reasonable and necessary due to the scope of work under this contract or its terms and conditions;
 - (ii) Required for normal maintenance; or

(iii) Otherwise authorized by the Contracting Officer.

(3) The Contractor shall not cannibalize Government property unless otherwise provided for in this contract or approved by the Contracting Officer.

(d) *Government-furnished property.*

(1) The Government shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Contractor as contractor-acquired property and subsequently transferred to another contract with this Contractor.

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

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

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

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

(3) (i) The Contracting Officer may by written notice, at any time—

- (A) Increase or decrease the amount of Government-furnished property under this contract;
 - (B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or
 - (C) Withdraw authority to use property.
- (ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.
- (e) *Title to Government property.*
- (1) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), is subject to the provisions of this clause. The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property
 - (2) Title vests in the Government for all property acquired or fabricated by the Contractor in accordance with the financing provisions or other specific requirements for passage of title in the contract. Under fixed price type contracts, in the absence of financing provisions or other specific requirements for passage of title in the contract, the Contractor retains title to all property acquired by the Contractor for use on the contract, except for property identified as a deliverable end item. If a deliverable item is to be retained by the Contractor for use after inspection and acceptance by the Government, it shall be made accountable to the contract through a contract modification listing the item as Government-furnished property.
 - (3) *Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts.*
 - (i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.
 - (ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon—

- (A) Issuance of the property for use in contract performance;
- (B) Commencement of processing of the property for use in contract performance; or
- (C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(f) *Contractor plans and systems.*

(1) Contractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:

(i) *Acquisition of Property.* The Contractor shall document that all property was acquired consistent with its engineering, production planning, and property control operations.

(ii) *Receipt of Government Property.* The Contractor shall receive Government property and document the receipt, record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) *Government-furnished property.* The Contractor shall furnish a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(B) *Contractor-acquired property.* The Contractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Contractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) *Records of Government property.* The Contractor shall create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

- (1) The name, part number and description, National Stock Number (if needed for additional item identification tracking and/or disposition), and other data elements as necessary and required in accordance with the terms and conditions of the contract.
- (2) Quantity received (or fabricated), issued, and balance-on-hand.
- (3) Unit acquisition cost.
- (4) Unique-item identifier or equivalent (if available and necessary for individual item tracking).
- (5) Unit of measure.
- (6) Accountable contract number or equivalent code designation.
- (7) Location.
- (8) Disposition.
- (9) Posting reference and date of transaction.
- (10) Date placed in service (if required in accordance with the terms and conditions of the contract).

(B) *Use of a Receipt and Issue System for Government Material.*
When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) *Physical inventory.* The Contractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. The Property Administrator may waive this final inventory requirement, depending on the circumstances (*e.g.*, overall reliability of the Contractor's system or the property is to be transferred to a follow-on contract).

(v) *Subcontractor control.*

(A) The Contractor shall award subcontracts that clearly identify items to be provided and the extent of any restrictions or limitations on their use. The Contractor shall ensure appropriate flow down of contract terms and conditions (*e.g.*, extent of liability for loss of Government property).

(B) The Contractor shall assure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor's property management system.

- (vi) *Reports*. The Contractor shall have a process to create and provide reports of discrepancies, loss of Government property, physical inventory results, audits and self-assessments, corrective actions, and other property-related reports as directed by the Contracting Officer.
- (vii) *Relief of stewardship responsibility and liability*. The Contractor shall have a process to enable the prompt recognition, investigation, disclosure and reporting of loss of Government property, including losses that occur at subcontractor or alternate site locations.
- (A) This process shall include the corrective actions necessary to prevent recurrence.
- (B) Unless otherwise directed by the Property Administrator, the Contractor shall investigate and report to the Government all incidents of property loss as soon as the facts become known. Such reports shall, at a minimum, contain the following information:
- (1) Date of incident (if known).
 - (2) The data elements required under (f)(1)(iii)(A).
 - (3) Quantity.
 - (4) Accountable contract number.
 - (5) A statement indicating current or future need.
 - (6) Unit acquisition cost, or if applicable, estimated sales proceeds, estimated repair or replacement costs.
 - (7) All known interests in commingled material of which includes Government material.
 - (8) Cause and corrective action taken or to be taken to prevent recurrence.
 - (9) A statement that the Government will receive compensation covering the loss of Government property, in the event the Contractor was or will be reimbursed or compensated.
 - (10) Copies of all supporting documentation.
 - (11) Last known location.
 - (12) A statement that the property did or did not contain sensitive, export controlled, hazardous, or toxic material, and that the appropriate agencies and authorities were notified.
- (C) Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility and liability for property when—

- (1) Such property is 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;
- (2) Property Administrator grants relief of responsibility and liability for loss of Government property;
- (3) Property is delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or
- (4) Property is disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) *Utilizing Government property.*

- (A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.
- (B) Unless otherwise authorized in this contract or by the Property Administrator the Contractor shall not commingle Government material with material not owned by the Government.

(ix) *Maintenance.* The Contractor shall properly maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(x) *Property closeout.* The Contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss of Government property 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 needs.

(2) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions, loss of Government property, and disposition of material and equipment.

(g) Systems analysis.

- (1) 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 plan(s), 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.
- (2) Records of Government property shall be readily available to authorized Government personnel and shall be appropriately safeguarded.
- (3) Should it be determined by the Government that the Contractor's (or subcontractor's) property management practices are inadequate or not acceptable for the effective management and control of Government property under this contract, or present an undue risk to the Government, the Contractor shall prepare a corrective action plan when requested by the Property Administer and take all necessary corrective actions as specified by the schedule within the corrective action plan.
- (4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) *Contractor Liability for Government Property.*

- (1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss of Government property furnished or acquired under this contract, except when any one of the following applies—
 - (i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with [31.205-19](#).
 - (ii) Loss of Government property that is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.
 - (iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss of Government property due to a determination under paragraph (g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and

convincing evidence that the loss of Government property occurred while the Contractor had adequate property management practices or the loss did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable.

- (2) The Contractor shall take all reasonable actions necessary to protect the property from further loss. The Contractor shall separate the damaged and undamaged property, place all the affected property in the best possible order, and take such other action as the Property Administrator directs.
 - (3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss of Government property.
 - (4) The Contractor shall reimburse the Government for loss of Government property, to the extent that the Contractor is financially liable for such loss, as directed by the Contracting Officer.
 - (5) Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.
- (i) *Equitable adjustment.* Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. However, the Government shall not be liable for breach of contract for the following:
- (1) Any delay in delivery of Government-furnished property.
 - (2) Delivery of Government-furnished property in a condition not suitable for its intended use.
 - (3) An increase, decrease, or substitution of Government-furnished property.
 - (4) Failure to repair or replace Government property for which the Government is responsible. [Standard Form 1428](#).
- (j) *Contractor inventory disposal.* Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer or authorizing official.
- (1) Predisposal requirements.
 - (i) If the Contractor determines that the property has the potential to fulfill requirements under other contracts, the Contractor, in consultation with the Property Administrator, shall request that the Contracting Officer transfer the property to the contract in question, or provide authorization for use, as appropriate. In lieu of transferring the property, the Contracting Officer may authorize the Contractor to credit the costs of Contractor-acquired property (material only) to the losing contract, and debit the gaining contract with the corresponding cost, when such material is needed for use on another contract. Property no longer needed shall be considered contractor inventory.

- (ii) For any remaining Contractor-acquired property, the Contractor may purchase the property at the unit acquisition cost if desired or make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices.)

(2) *Inventory disposal schedules.*

- (i) Absent separate contract terms and conditions for property disposition, and provided the property was not reutilized, transferred, or otherwise disposed of, the Contractor, as directed by the Plant Clearance Officer or authorizing official, shall use Standard Form 1428, Inventory Disposal Schedule or electronic equivalent, to identify and report—
 - (A) Government-furnished property that is no longer required for performance of this contract;
 - (B) Contractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that contract; and
 - (C) Termination inventory.
- (ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government, in the event that the property is offered for sale.
- (iii) Separate inventory disposal schedules are required for aircraft in any condition, flight safety critical aircraft parts, and other items as directed by the Plant Clearance Officer.
- (iv) The Contractor shall provide the information required by FAR 52.245-1(f)(1)(iii) along with the following:
 - (A) Any additional information that may facilitate understanding of the property's intended use.
 - (B) For work-in-progress, the estimated percentage of completion.
 - (C) For precious metals in raw or bulk form, the type of metal and estimated weight.
 - (D) For hazardous material or property contaminated with hazardous material, the type of hazardous material.
 - (E) For metals in mill product form, the form, shape, treatment, hardness, temper, specification (commercial or Government) and dimensions (thickness, width and length).
- (v) Property with the same description, condition code, and reporting location may be grouped in a single line item.

- (vi) Scrap should be reported by “lot” along with metal content, estimated weight and estimated value.
- (3) *Submission requirements.* The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than—
- (i) The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than—
 - (A) 30 days following the Contractor’s determination that a property item is no longer required for performance of this contract;
 - (B) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or
 - (C) 120 days, or such longer period as may be approved by the Termination Contracting Officer, following contract termination in whole or in part.
 - (ii) Unless the Plant Clearance Officer determines otherwise, the Contractor need not identify or report production scrap on inventory disposal schedules, and may process and dispose of production scrap in accordance with its own internal scrap procedures. The processing and disposal of other types of Government-owned scrap will be conducted in accordance with the terms and conditions of the contract or Plant Clearance Officer direction, as appropriate.
- (4) *Corrections.* The Plant Clearance Officer may—
- (i) Reject a schedule for cause (e.g., contains errors, determined to be inaccurate); and
 - (ii) Require the Contractor to correct an inventory disposal schedule.
- (5) *Postsubmission adjustments.* The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule
- (6) *Storage.*
- (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government’s failure to furnish disposal instructions within 120 days following acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

- (ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage area shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability for such property under this contract.

(7) Disposition instructions.

- (i) 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 Contracting Officer 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 its disposal.
- (ii) The Contracting Officer 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

- (8) *Disposal proceeds.* As directed by the Contracting Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract or to the Treasury of the United States as miscellaneous receipts.

- (9) *Subcontractor inventory disposal schedules.* The Contractor shall require its Subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (j)(3) of this clause.

(k) *Abandonment of Government property.*

- (1) The Government shall not abandon sensitive property or termination inventory without the Contractor's written consent.
- (2) The Government, upon notice to the Contractor, may abandon any nonsensitive property in place, at which time all obligations of the Government regarding such property shall cease.
- (3) Absent contract terms and conditions to the contrary, the Government may abandon parts removed and replaced from property as a result of normal maintenance actions, or removed from property as a result of the repair, maintenance, overhaul, or modification process.

- (4) 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 unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(l) *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 "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

I.111 FAR 52.245-9 USE AND CHARGES (APR 2012)

I.112 FAR 52.246-25 LIMITATION OF LIABILITY – SERVICES (FEB 1997)

I.113 FAR 52.247-67 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 paid—

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

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

(b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding \$100. Bills under \$100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

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

TBD

[To be filled in by Contracting Officer]

I.114 FAR 52.248-1 VALUE ENGINEERING (OCT 2010)

I.115 FAR 52.251-1 GOVERNMENT SUPPLY SOURCES (APR 2012)

I.116 FAR 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.
- (b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation (DEAR) (48 CFR Chapter 9) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

I.117 FAR 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

I.118 DEAR 952.202-1 DEFINITIONS (MAR 2011)

- (a) As prescribed in 902.201, insert the clause at 48 CFR 52.202-1, Definitions, in all contracts. The following shall be added to the clause as paragraph (c):
- (b) When a solicitation provision or contract clause uses a word or term that is defined in the Department of Energy Acquisition Regulation (DEAR) (48 CFR chapter 9), the word or term has the same meaning as the definition in 48 CFR 902.101 or the definition in the part, subpart, or section of 48 CFR chapter 9 where the provision or clause is prescribed in effect at the time the solicitation was issued, unless an exception in (a) applies.

I.119 DEAR 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)

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

I.120 DEAR 952.204-2 SECURITY (MAR 2011)

- (a) *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, material and special nuclear material) which are in the Contractor's possession in connection with the performance of work under this contract against sabotage, espionage, loss or theft. Except as otherwise expressly provided in this contract, the Contractor shall, upon completion or termination of this contract, transmit to DOE any classified matter or

- special nuclear material in the possession of the Contractor or any person under the Contractor's control in connection with performance of this contract. If retention by the Contractor of any classified matter is required after the completion or termination of the contract, the Contractor shall identify the items and classification levels and categories of matter proposed for retention, the reasons for the retention, and the proposed period of retention. If the retention is approved by the Contracting Officer, the security provisions of the contract shall continue to be applicable to the classified matter retained. Special nuclear material shall not be retained after the completion or termination of the contract.
- (b) *Regulations.* The Contractor agrees to comply with all security regulations and contract requirements of DOE as incorporated into the contract.
- (c) *Definition of classified information.* The term *Classified Information* means information that is classified as Restricted Data or Formerly Restricted Data under the Atomic Energy Act of 1954, or information determined to require protection against unauthorized disclosure under Executive Order 12958, *Classified National Security Information*, as amended, or prior executive orders, which is identified as *National Security Information*.
- (d) *Definition of restricted data.* The term *Restricted Data* means all data concerning design, manufacture, or utilization of atomic weapons; production of special nuclear material; or use of special nuclear material in the production of energy, but excluding data declassified or removed from the Restricted Data category pursuant to 42 U.S.C. 2162 [Section 142, as amended, of the Atomic Energy Act of 1954].
- (e) *Definition of formerly restricted data.* The term "*Formerly Restricted Data*" means information removed from the Restricted Data category based on a joint determination by DOE or its predecessor agencies and the Department of Defense that the information—(1) Relates primarily to the military utilization of atomic weapons; and (2) can be adequately protected as National Security Information. However, such information is subject to the same restrictions on transmission to other countries or regional defense organizations that apply to Restricted Data.
- (f) *Definition of national security information.* The term "*National Security Information*" means information that has been determined, pursuant to Executive Order 12958, *Classified National Security Information*, as amended, or any predecessor order, to require protection against unauthorized disclosure, and that is marked to indicate its classified status when in documentary form.
- (g) *Definition of special nuclear material.* The term "special nuclear material" means—(1) Plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which, pursuant to 42 U.S.C. 2071 [section 51 as amended, of the Atomic Energy Act of 1954] has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

- (h) *Access authorizations of personnel.* (1) The Contractor shall not permit any individual to have access to any classified information or special nuclear material, except in accordance with the Atomic Energy Act of 1954, and the DOE's regulations and contract requirements applicable to the particular level and category of classified information or particular category of special nuclear material to which access is required.
- (2) The Contractor must conduct a thorough review, as defined at 48 CFR 904.401, of an uncleared applicant or uncleared employee, and must test the individual for illegal drugs, prior to selecting the individual for a position requiring a DOE access authorization.
- (i) A review must—Verify an uncleared applicant's or uncleared employee's educational background, including any high school diploma obtained within the past five years, and degrees or diplomas granted by an institution of higher learning; contact listed employers for the last three years and listed personal references; conduct local law enforcement checks when such checks are not prohibited by state or local law or regulation and when the uncleared applicant or uncleared employee resides in the jurisdiction where the Contractor is located; and conduct a credit check and other checks as appropriate.
- (ii) Contractor reviews are not required for an applicant for DOE access authorization who possesses a current access authorization from DOE or another Federal agency, or whose access authorization may be reapproved without a federal background investigation pursuant to Executive Order 12968, Access to Classified Information (August 4, 1995), Sections 3.3(c) and (d).
- (iii) In collecting and using this information to make a determination as to whether it is appropriate to select an uncleared applicant or uncleared employee to a position requiring an access authorization, the Contractor must comply with all applicable laws, regulations, and Executive Orders, including those—(A) Governing the processing and privacy of an individual's information, such as the Fair Credit Reporting Act, Americans with Disabilities Act (ADA), and Health Insurance Portability and Accountability Act; and (B) prohibiting discrimination in employment, such as under the ADA, Title VII and the Age Discrimination in Employment Act, including with respect to pre- and post-offer of employment disability related questioning.
- (iv) In addition to a review, each candidate for a DOE access authorization must be tested to demonstrate the absence of any illegal drug, as defined in 10 CFR 707.4. All positions requiring access authorizations are deemed *testing designated positions* in accordance with 10 CFR part 707. All employees possessing access authorizations are subject to applicant, random or for cause testing for use of illegal drugs. DOE will not process candidates for a DOE access authorization unless their tests confirm the absence from their system of any illegal drug.
- (v) When an uncleared applicant or uncleared employee receives an offer of

employment for a position that requires a DOE access authorization, the Contractor shall not place that individual in such a position prior to the individual's receipt of a DOE access authorization, unless an approval has been obtained from the head of the cognizant local security office. If the individual is hired and placed in the position prior to receiving an access authorization, the uncleared employee may not be afforded access to classified information or matter or special nuclear material (in categories requiring access authorization) until an access authorization has been granted.

- (vi) The Contractor must furnish to the head of the cognizant local DOE Security Office, in writing, the following information concerning each uncleared applicant or uncleared employee who is selected for a position requiring an access authorization—
- (A) The date(s) each Review was conducted;
 - (B) Each entity that provided information concerning the individual;
 - (C) A certification that the review was conducted in accordance with all applicable laws, regulations, and Executive Orders, including those governing the processing and privacy of an individual's information collected during the review;
 - (D) A certification that all information collected during the review was reviewed and evaluated in accordance with the Contractor's personnel policies; and
 - (E) The results of the test for illegal drugs.
- (i) *Criminal liability.* It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to protect any classified information, special nuclear material, or other Government property that may come to the Contractor or any person under the Contractor's control in connection with work under this contract, may subject the Contractor, its agents, employees, or Subcontractors to criminal liability under the laws of the United States (see the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794).
- (j) *Foreign ownership, control, or influence.* (1) The Contractor shall immediately provide the cognizant security office written notice of any change in the extent and nature of foreign ownership, control or influence over the Contractor which would affect any answer to the questions presented in the Standard Form (SF) 328, *Certificate Pertaining to Foreign Interests*, executed prior to award of this contract. Contractors are encouraged to submit this information through the use of the online tool at <https://foci.td.anl.gov>. When completed the Contractor must print and sign one copy of the SF 328 and submit it to the Contracting Officer. In addition, any notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice, shall also be furnished concurrently to the Contracting Officer.
- (2) If a Contractor has changes involving foreign ownership, control, or influence, DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, DOE will consider proposals

- made by the Contractor to avoid or mitigate foreign influences.
- (3) If the cognizant security office at any time determines that the Contractor is, or is potentially, subject to foreign ownership, control, or influence, the Contractor shall comply with such instructions as the Contracting Officer shall provide in writing to protect any classified information or special nuclear material.
- (4) The Contracting Officer 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 Contracting Officer 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 of the contract, cannot, or chooses not to, avoid or mitigate the foreign ownership, control, or influence problem.
- (k) *Employment announcements.* When placing announcements seeking applicants for positions requiring access authorizations, the Contractor shall include in the written vacancy announcement, a notification to prospective applicants that reviews, and tests for the absence of any illegal drug as defined in 10 CFR 707.4, will be conducted by the employer and a background investigation by the Federal government may be required to obtain an access authorization prior to employment, and that subsequent reinvestigations may be required. If the position is covered by the Counterintelligence Evaluation Program regulations at 10 CFR part 709, the announcement should also alert applicants that successful completion of a counterintelligence evaluation may include a counterintelligence-scope polygraph examination.
- (l) *Flow down to subcontracts.* The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph, in all subcontracts under its contract that will require subcontractor employees to possess access authorizations. Additionally, the Contractor must require such subcontractors to have an existing DOD or DOE facility clearance or submit a completed SF 328, *Certificate Pertaining to Foreign Interests*, as required in 48 CFR 952.204-73, Facility Clearance, and obtain a foreign ownership, control and influence determination and facility clearance prior to award of a subcontract. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the Contracting Officer. For purposes of this clause, subcontractor means any subcontractor at any tier and the term "Contracting Officer" means the DOE Contracting Officer. When this clause is included in a subcontract, the term "Contractor" shall mean subcontractor and the term "contract" shall mean subcontract.

I.121 DEAR 952.204-75 PUBLIC AFFAIRS (DEC 2000)

- (a) The Contractor must cooperate with the Department in releasing unclassified information to the public and news media regarding DOE policies, programs, and activities relating to its effort under the contract. The responsibilities under this clause must be accomplished through coordination with the Contracting Officer and

- appropriate DOE public affairs personnel in accordance with procedures defined by the Contracting Officer.
- (b) The Contractor is responsible for the development, planning, and coordination of proactive approaches for the timely dissemination of unclassified information regarding DOE activities onsite and offsite, including, but not limited to, operations and programs. Proactive public affairs programs may utilize a variety of communication media, including public workshops, meetings or hearings, open houses, newsletters, press releases, conferences, audio/visual presentations, speeches, forums, tours, and other appropriate stakeholder interactions.
 - (c) The Contractor's internal procedures must ensure that all releases of information to the public and news media are coordinated through, and approved by, a management official at an appropriate level within the Contractor's organization.
 - (d) The Contractor must comply with DOE procedures for obtaining advance clearances on oral, written, and audio/visual informational material prepared for public dissemination or use.
 - (e) Unless prohibited by law, and in accordance with procedures defined by the Contracting Officer, the Contractor must notify the Contracting Officer and appropriate DOE public affairs personnel of communications or contacts with Members of Congress relating to the effort performed under the contract.
 - (f) In accordance with procedures defined by the Contracting Officer, the Contractor must notify the Contracting Officer and appropriate DOE public affairs personnel of activities or situations that may attract regional or national news media attention and of non-routine inquiries from national news media relating to the effort performed under the contract.
 - (g) In releases of information to the public and news media, the Contractor must fully and accurately identify the Contractor's relationship to the Department and fully and accurately credit the Department for its role in funding programs and projects resulting in scientific, technical, and other achievements.

I.122 DEAR 952.204-77 COMPUTER SECURITY (AUG 2006)

- (a) Definitions.
 - (1) Computer means desktop computers, portable computers, computer networks (including the DOE Network and local area networks at or controlled by DOE organizations), network devices, automated information systems, and or other related computer equipment owned by, leased, or operated on behalf of the DOE.

- (2) Individual means a DOE contractor or subcontractor employee, or any other person who has been granted access to a DOE computer or to information on a DOE computer, and does not include a member of the public who sends an e-mail message to a DOE computer or who obtains information available to the public on DOE Web sites.
- (b) Access to DOE computers. A contractor shall not allow an individual to have access to information on a DOE computer unless:
- (1) The individual has acknowledged in writing that the individual has no expectation of privacy in the use of a DOE computer; and,
 - (2) The individual has consented in writing to permit access by an authorized investigative agency to any DOE computer used during the period of that individual's access to information on a DOE computer, and for a period of three years thereafter.
- (c) No expectation of privacy. Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no individual using a DOE computer shall have any expectation of privacy in the use of that computer.
- (d) Written records. The contractor is responsible for maintaining written records for itself and subcontractors demonstrating compliance with the provisions of paragraph (b) of this section. The contractor agrees to provide access to these records to the DOE, or its authorized agents, upon request.
- (e) Subcontracts. The contractor shall insert this clause, including this paragraph (e), in subcontracts under this contract that may provide access to computers owned, leased or operated on behalf of the DOE.

I.123 DEAR 952.208-70 PRINTING (APR 1984)

The contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this contract) in connection with the performance of work under this contract. Provided, however, that performance of a requirement under this contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color. A requirement is defined as a single publication document.

- (1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.

- (2) If fulfillment of the contract will necessitate reproduction in excess of the limits set forth above, the contractor shall notify the contracting officer in writing and obtain the contracting officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.
- (3) Printing services not obtained in compliance with this guidance will result in the cost of such printing being disallowed.
- (4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).

**I.124 DEAR DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST
(AUG 2009) AND ALTERNATE I (FEB 2011)**

- (a) Purpose. The purpose of this clause is to ensure that the Contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.
- (b) Scope. The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Contractor") in the activities covered by this clause as a prime Contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.
 - (1) Use of Contractor's Work Product.
 - (i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from the Contractor's performance of work under this contract for a period of zero (0) years after the completion of this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the Contractor from competing for follow-on contracts for advisory and assistance services.
 - (ii) If, under this contract, the Contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The

Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

- (iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard and commercial items to the Government.
- (2) Access to and use of information.
 - (i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the Contracting Officer it shall not—
 - (A) use such information for any private purpose unless the information has been released or otherwise made available to the public;
 - (B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;
 - (C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and
 - (D) release such information unless such information has previously been released or otherwise made available to the public by the Department.
 - (ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.
 - (iii) The Contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.
- (c) Disclosure after award.
 - (1) The Contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the Contracting Officer. Such disclosure may include a description of any action which the Contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.

- (2) In the event that the Contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Contracting Officer, DOE may terminate this contract for default.
- (d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the Contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.
- (e) Waiver. Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer may grant such a waiver in writing.
- (f) Subcontracts.
 - (1) The Contractor shall include a clause, substantially similar to this clause, including this paragraph (f), in subcontracts expected to exceed the simplified acquisition threshold determined in accordance with 48 CFR part 13 and involving the performance of advisory and assistance services as that term is defined at 48 CFR 2.101. The terms "contract," "Contractor," and "Contracting Officer" shall be appropriately modified to preserve the Government's rights.
 - (2) Prior to the award under this contract of any such subcontracts for advisory and assistance services, the Contractor shall obtain from the proposed subcontractor or consultant the disclosure required by 48 CFR 909.507-1, and shall determine in writing whether the interests disclosed present an actual or significant potential for an organizational conflict of interest. Where an actual or significant potential organizational conflict of interest is identified, the Contractor shall take actions to avoid, neutralize, or mitigate the organizational conflict to the satisfaction of the Contractor. If the conflict cannot be avoided or neutralized, the Contractor must obtain the approval of the DOE Contracting Officer prior to entering into the subcontract.

I.125 DEAR 952.215-70 KEY PERSONNEL (DEC 2000)

- (a) The personnel listed in Section H 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 Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or

suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.

- (b) 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.

I.126 DEAR 952.223-71 INTEGRATION OF ENVIRONMENT, SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION (DEC 2000)

- (a) For the purposes of this clause,

- (1) Safety encompasses environment, safety and health, including pollution prevention and waste minimization; and
- (2) Employees include subcontractor employees.

- (b) In performing work under this contract, the contractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The contractor shall exercise a degree of care commensurate with the work and the associated hazards. The contractor shall ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral but visible part of the contractor's work planning and execution processes. The contractor shall, in the performance of work, ensure that:

- (1) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those contractor and subcontractor employees managing or supervising employees performing work.
- (2) Clear and unambiguous lines of authority and responsibility for ensuring (ES&H) are established and maintained at all organizational levels.
- (3) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.
- (4) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority

whenever activities are planned and performed.

- (5) Before work is performed, the associated hazards are evaluated and an agreed-upon set of ES&H standards and requirements are established which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.
 - (6) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis should be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.
 - (7) The conditions and requirements to be satisfied for operations to be initiated and conducted are established and agreed-upon by DOE and the contractor. These agreed-upon conditions and requirements are requirements of the contract and binding upon the contractor. The extent of documentation and level of authority for agreement shall be tailored to the complexity and hazards associated with the work and shall be established in a Safety Management System.
- (c) The contractor shall manage and perform work in accordance with a documented Safety Management System (System) that fulfills all conditions in paragraph (b) of this clause at a minimum. Documentation of the System shall describe how the contractor will:
- (1) Define the scope of work;
 - (2) Identify and analyze hazards associated with the work;
 - (3) Develop and implement hazard controls;
 - (4) Perform work within controls; and
 - (5) Provide feedback on adequacy of controls and continue to improve safety management.
- (d) The System shall describe how the contractor will establish, document, and implement safety performance objectives, performance measures, and commitments in response to DOE program and budget execution guidance while maintaining the integrity of the System. The System shall also describe how the contractor will measure system effectiveness.

- (e) The contractor shall submit to the contracting officer documentation of its System for review and approval. Dates for submittal, discussions, and revisions to the System will be established by the contracting officer. Guidance on the preparation, content, review, and approval of the System will be provided by the contracting officer. On an annual basis, the contractor shall review and update, for DOE approval, its safety performance objectives, performance measures, and commitments consistent with and in response to DOE's program and budget execution guidance and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire System. Accordingly, the System shall be integrated with the contractor's business processes for work planning, budgeting, authorization, execution, and change control.
- (f) The contractor shall comply with, and assist the Department of Energy in complying with, ES&H requirements of all applicable laws and regulations, and applicable directives identified in the clause of this contract entitled "Laws, Regulations, and DOE Directives." The contractor shall cooperate with Federal and non-Federal agencies having jurisdiction over ES&H matters under this contract.
- (g) The contractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements and the System. If the contractor fails to provide resolution or if, at any time, the contractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the contracting officer may issue an order stopping work in whole or in part. Any stop work order issued by a contracting officer under this clause (or issued by the contractor to a subcontractor in accordance with paragraph (i) of this clause) shall be without prejudice to any other legal or contractual rights of the Government. In the event that the contracting officer issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the contracting officer.

The contractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this clause.

- (h) Regardless of the performer of the work, the contractor is responsible for compliance with the ES&H requirements applicable to this contract. The contractor is responsible for flowing down the ES&H requirements applicable to this contract to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

- (i) The contractor shall include a clause substantially the same as this clause in subcontracts involving complex or hazardous work on site at a DOE-owned or-leased facility. Such subcontracts shall provide for the right to stop work under the conditions described in paragraph (g) of this clause. Depending on the complexity and hazards associated with the work, the contractor may choose not to require the subcontractor to submit a Safety Management System for the contractor's review and approval.

I.127 DEAR 952.223-72 RADIATION PROTECTION AND NUCLEAR CRITICALITY (APR 1984)

The Contractor shall take all reasonable precautions in the performance of work under this contract to protect the safety and health of employees and of members of the public against the hazards of ionizing radiation and radioactive materials and shall comply with all applicable radiation protection and nuclear criticality safety standards and requirements (including reporting requirements) of DOE. The Contractor shall submit a management program and implementation plan to the Contracting Officer for review and approval within 30 days after the effective date of this contract or modification. In the event that the Contractor fails to comply with said standards and requirements of DOE, the Contracting Officer may, without prejudice to any other legal or contractual rights of DOE, issue an order stopping all or any part of the work. Thereafter, a start order for resumption of the work may be issued at the discretion of the Contracting Officer. The contractor shall make no claim for an extension of time or for compensation or damages by reason of or in connection with such work stoppage.

I.128 DEAR 952.223-75 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (APR 1984)

Individual occupational radiation exposure records generated in the performance of work under this contract shall be subject to inspection by DOE and shall be preserved by the contractor until disposal is authorized by DOE or at the option of the contractor delivered to DOE upon completion or termination of the contract. If the contractor exercises the foregoing option, title to such records shall vest in DOE upon delivery.

I.129 DEAR 952.223-76 CONDITIONAL PAYMENT OF FEE OR PROFIT — SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION AND PROTECTION OF WORKER SAFETY AND HEALTH [DEC 2010]

- (a) General.

(1) The payment of fee or profit (i.e., award fee, fixed fee, and incentive fee or profit) under this contract is dependent upon the Contractor's compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other

classified information (i.e., Formerly Restricted Data and National Security Information) and relating to the protection of worker safety and health, including compliance with applicable law, regulation, and DOE directives. The term “contractor” as used in this clause to address failure to comply shall mean “contractor or contractor employee.”

(2) In addition to other remedies available to the Federal Government, if the Contractor fails to comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information or relating to the protection of worker safety and health, the Contracting Officer may unilaterally reduce the amount of fee or profit that is otherwise payable to the Contractor in accordance with the terms and conditions of this clause.

(3) Any reduction in the amount of fee or profit earned by the Contractor will be determined by the severity of the Contractor’s failure to comply with contract terms and conditions relating to the safeguarding of Restricted Data or other classified information or relating to worker safety and health pursuant to the degrees specified in paragraphs (c) and (d) of this clause.

(b) Reduction Amount.

(1) If in any period (see paragraph(b)(2) of this clause) it is found that the Contractor has failed to comply with contract terms and conditions relating to the safeguarding of Restricted Data or other classified information or relating to the protection of worker safety and health, the Contractor’s fee or profit of the period may be reduced. Such reduction shall not be less than 26% nor greater than 100% of the total fee or profit earned for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure. The Contracting Officer must consider mitigating factors that may warrant a reduction below the specified range (see 48 CFR 904.402(c) and 48 CFR 923.7002(a)(2)). The mitigating factors include, but are not limited to, the following (v), (vi), (vii), and (viii) apply to worker safety and health (WS&H) only:

(i) Degree of control the Contractor had over the event or incident.

(ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.

(iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.

(iv) General status (trend and absolute performance) of: safeguarding Restricted Data and other classified information and compliance in related security areas; or of protecting WS&H and compliance in related areas.

(v) Contractor demonstration to the Contracting Officer’s satisfaction that the principles of industrial WS&H standards are routinely practiced (e.g., Voluntary Protection Program Star Status).

(vi) Event caused by "Good Samaritan" act by the Contractor (e.g., offsite emergency response).

(vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain WS&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, WS&H programs).

(viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in WS&H by use of lessons-learned and best practices inter- and intra-DOE sites.

(2)(i) Except in the case of performance-based, firm-fixed-price contracts (see paragraph (b)(3) of this clause), the Contracting Officer, for purposes of this clause, will at the time of contract award, or as soon as practicable thereafter, allocate the total amount of fee or profit that is available under this contract to equal periods of [insert 6 or 12] months to run sequentially for the entire term of the contract (i.e., from the effective date of the contract to the expiration date of the contract, including all options). The amount of fee or profit to be allocated to each period shall be equal to the average monthly fee or profit that is available or otherwise payable during the entire term of the contract, multiplied by the number of months established above for each period.

(ii) Under this clause, the total amount of fee or profit that is subject to reduction in a period in which a performance failure occurs, in combination with any reduction made under any other clause in the contract that provides for a reduction to the fee or profit, shall not exceed the amount of fee or profit that is earned by the Contractor in the period established pursuant to paragraph (b)(2)(i) of this clause.

(3) For performance-based firm-fixed-price contracts, the Contracting Officer will at the time of contract award include negative monetary incentives in the contract for Contractor violations relating to the safeguarding of Restricted Data and other classified information and relating to protection of worker safety and health.

(c) Safeguarding Restricted Data and Other Classified Information. Performance failures occur if the Contractor does not comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failures relating to the Contractor's obligations under this contract for safeguarding of Restricted Data and other classified information are as follows:

(1) First Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of

information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other classified information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.

(2) Second Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.

(ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.

(iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (c)(1)(iii) of this clause).

(iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.

(3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or

performance failures of similar import will be considered third degree:

(i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.

(ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.

(iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the Contractor's Safeguards and Security Plan or other security plan, as applicable.

(iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the Contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.

(d) Protection of Worker Safety and Health. Performance failures occur if the contractor does not comply with the contract's WS&H terms and conditions, which may be included in the DOE approved contractor Integrated Safety Management System (ISMS). The degrees of performance failure under which reductions of fee or profit will be determined are:

(1) First Degree: Performance failures that are most adverse to WS&H or could threaten the successful completion of a program or project. For contracts including ISMS requirements, failure to develop and obtain required DOE approval of WS&H aspects of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the WS&H aspects of the Contractor's ISMS. The following performance failures or performance failures of similar import will be deemed first degree:

(i) Type A accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

(ii) Two Second Degree performance failures during an evaluation period.

(2) Second Degree: Performance failures that are significantly adverse to WS&H. They include failures to comply with approved WS&H aspects of an ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. The following performance failures or performance failures of similar import will be considered second degree:

(i) Type B accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

(ii) Non-compliance with approved WS&H aspects of an ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.

(iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.

(3) Third Degree: Performance failures that reflect a lack of focus on improving WS&H. They include failures to comply with approved WS&H aspects of an ISMS that result in potential breakdown of the Contractor's WS&H system. The following performance failures or performance failures of similar import will be considered third degree:

(i) Failure to implement effective corrective actions to address deficiencies/non-compliance documented through external (e.g., Federal) oversight and/or reported per DOE Manual 231.1-2, Occurrence Reporting and Processing of Operations Information, or its successor, requirements, or internal oversight of DOE Order 470.2B, Independent Oversight and Performance Assurance Program, or its successor requirements.

(ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant WS&H system breakdown.

(iii) Non-compliances that either have, or may have, significant negative impacts to workers that indicate a significant WS&H system breakdown.

(iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the contract.

I.130 DEAR 952.223-77 CONDITIONAL PAYMENT OF FEE OR PROFIT – PROTECTION OF WORKER SAFETY AND HEALTH (DEC 2010)

(a) General. (1) The payment of fee or profit (i.e., award fee, fixed fee, and incentive fee or profit) under this contract is dependent upon the Contractor's compliance with the terms and conditions of this contract relating to the protection of worker safety and health (WS&H), including compliance with applicable law, regulation, and DOE directives. The term "Contractor" as used in this clause to address failure to comply shall mean "Contractor or Contractor employee."

(2) In addition to other remedies available to the Federal Government, if the Contractor fails to comply with the terms and conditions of this contract relating to the protection of worker safety and health, the Contracting Officer may unilaterally reduce the amount of fee or profit that is otherwise payable to the Contractor in accordance with the terms and conditions of this clause.

(3) Any reduction in the amount of fee or profit earned by the Contractor will be determined by the severity of the Contractor's failure to comply with contract terms and conditions relating to worker safety and health pursuant to the degrees specified in

paragraph (c) of this clause.

(b) Reduction Amount.

(1) If in any period (see paragraph (b)(2) of this clause) it is found that the Contractor has failed to comply with contract terms and conditions relating to the protection of worker safety and health, the Contractor's fee or profit of the period may be reduced. Such reduction shall not be less than 26% nor greater than 100% of the total fee or profit earned for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure. The Contracting Officer must consider mitigating factors that may warrant a reduction below the specified range (see 48 CFR 923.7001(b)). The mitigating factors include, but are not limited to, the following:

- (i) Degree of control the Contractor had over the event or incident.
- (ii) Efforts the Contractor had made to anticipate and mitigate the possibility of the event in advance.
- (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
- (iv) General status (trend and absolute performance) of protecting WS&H and compliance in related areas.
- (v) Contractor demonstration to the Contracting Officer's satisfaction that the principles of industrial WS&H standards are routinely practiced (e.g., Voluntary Protection Program Star Status).
- (vi) Event caused by "Good Samaritan" act by the Contractor (e.g., offsite emergency response).
- (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain WS&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, WS&H programs).
- (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in WS&H by use of lessons-learned and best practices inter- and intra-DOE sites.

(2)(i) Except in the case of performance based firm-fixed-price contracts (see paragraph (b)(3) below), the Contracting Officer, for purposes of this clause, will at the time of contract award, or as soon as practicable thereafter, allocate the total amount of fee or profit that is available under this contract to equal periods of [insert 6 or 12] months to run sequentially for the entire term of the contract (i.e., from the effective date of the contract to the expiration date of the contract, including all options). The amount of fee or

profit to be allocated to each period shall be equal to the average monthly fee or profit that is available or otherwise payable during the entire term of the contract, multiplied by the number of months established above for each period.

(ii) Under this clause, the total amount of fee or profit that is subject to reduction in a period in which a performance failure occurs, in combination with any reduction made under any other clause in the contract that provides for a reduction to the fee or profit, shall not exceed the amount of fee or profit that is earned by the Contractor in the period established pursuant to paragraph (b)(2)(i) of this clause.

(3) For performance-based firm-fixed-price contracts, the Contracting Officer will at the time of contract award include negative monetary incentives in the contract for contractor violations relating to the protection of worker safety and health.

(c) Protection of Worker Safety and Health. Performance failures occur if the Contractor does not comply with the contract's WS&H terms and conditions, which may be included in the DOE approved contractor Integrated Safety Management System (ISMS). The degrees of performance failure under which reductions of fee or profit will be determined are:

(1) First Degree: Performance failures that are most adverse to WS&H or could threaten the successful completion of a program or project. For contracts including ISMS requirements, failure to develop and obtain required DOE approval of WS&H aspects of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the WS&H aspects of the Contractor's ISMS. The following performance failures or performance failures of similar import will be deemed first degree:

(i) Type A accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

(ii) Two Second Degree performance failures during an evaluation period.

(2) Second Degree: Performance failures that are significantly adverse to WS&H. They include failures to comply with approved WS&H aspects of an ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. The following performance failures or performance failures of similar import will be considered second degree:

(i) Type B accident (defined in DOE Order 225.1A, Accident Investigations, or its successor).

(ii) Non-compliance with approved WS&H aspects of an ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.

(iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.

(3) Third Degree: Performance failures that reflect a lack of focus on improving WS&H. They include failures to comply with approved WS&H aspects of an ISMS that result in potential breakdown of the Contractor's WS&H system. The following performance failures or performance failures of similar import will be considered third degree:

(i) Failure to implement effective corrective actions to address deficiencies/non-compliance documented through external (e.g., Federal) oversight and/or reported per DOE Manual 231.1-2, Occurrence Reporting and Processing of Operations Information, or its successor, requirements, or internal oversight of DOE Order 470.2B, Independent Oversight and Performance Assurance Program, or its successor, requirements.

(ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant WS&H system breakdown.

(iii) Non-compliances that either have, or may have, significant negative impacts to workers that indicate a significant WS&H system breakdown.

(iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the contract.

I.131 DEAR 952.223-78 SUSTAINABLE ACQUISITION PROGRAM (OCT 2010)

(a) Pursuant to Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the DOE is committed to managing its facilities in an environmentally preferable and sustainable manner that will promote the natural environment and protect the health and well being of its Federal employees and contractor service providers. In the performance of work under this contract, the Contractor shall provide its services in a manner that promotes the natural environment, reduces greenhouse gas emissions and protects the health and well being of Federal employees, contract service providers and visitors using the facility.

(b) Green purchasing or sustainable acquisition has several interacting initiatives. The Contractor must comply with initiatives that are current as of the contract award date. DOE may require compliance with revised initiatives from time to time. The Contractor may request an equitable adjustment to the terms of its contract using the procedures at 48 CFR 970.5243-1 Changes. The initiatives important to these Orders are explained on the following Government or Industry

Internet Sites:

(1) Recycled Content Products are described at <http://epa.gov/cpg>.

(2) Biobased Products are described at <http://www.biopreferred.gov/>.

- (3) Energy efficient products are at <http://energystar.gov/products> for Energy Star products.
 - (4) Energy efficient products are at <http://www.femp.energy.gov/procurement> for FEMP designated products.
 - (5) Environmentally preferable and energy efficient electronics including desktop computers, laptops and monitors are at <http://www.epeat.net> the Electronic Products Environmental Assessment Tool (EPEAT) the Green Electronics Council site.
 - (6) Green house gas emission inventories are required, including Scope 3 emissions which include contractor emissions. These are discussed at Section 13 of Executive Order 13514 which can be found at <http://www.archives.gov/federal-register/executive-orders/disposition.html>.
 - (7) Non-Ozone Depleting Alternative Products are at <http://www.epa.gov/ozone/strathome.html>.
 - (8) Water efficient plumbing products are at <http://epa.gov/watersense>
- (c) The clauses at FAR 52.223–2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223–15, Energy Efficiency in Energy Consuming Products, and 52.223–17 Affirmative Procurement of EPA–Designated Items in Service and Construction Contracts, require the use of products that have biobased content, are energy efficient, or have recycled content. To the extent that the services provided by the Contractor require provision of any of the above types of products, the Contractor must provide the energy efficient and environmentally sustainable type of product unless that type of product—
- (1) Is not available;
 - (2) Is not life cycle cost effective (or does not exceed 110% of the price of alternative items if life cycle cost data is unavailable), EPEAT is an example of lifecycle costs that have been analyzed by DOE and found to be acceptable at the silver and gold level;
 - (3) Does not meet performance needs; or,
 - (4) Cannot be delivered in time to meet a critical need.
- (d) In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (<http://www.epa.gov/greeningepa/practices/eo13423.htm>) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (<http://www.archives.gov/federal-register/executive-orders/disposition.html>). The Contractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, *Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic Performance*. This guide includes information concerning recycled content products, biobased products, energy efficient products, water efficient products, alternative fuels and vehicles, non ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at:

<http://management.energy.gov/documents/AcqGuide23pt0Rev1.pdf>.

- (e) Contractors must establish and maintain a documented energy management program which includes requirements for energy and water efficient equipment, EnergyStar or WaterSense, as applicable and procedures for verification of purchases, following the criteria in DOE Order 430.2B, Departmental Energy, Renewable Energy, and Transportation Management, Attachment 1, or its successor. This requirement should not be flowed down to subcontractors.
- (f) In complying with the requirements of paragraph (c) of this clause, the Contractor shall coordinate its activities with and submit required reports through the Environmental Sustainability Coordinator or equivalent position.
- (g) The Contractor shall prepare and submit performance reports using prescribed DOE formats, at the end of the Federal fiscal year, on matters related to the acquisition of environmentally preferable and sustainable products and services. This is a material delivery under the contract. Failure to perform this requirement may be considered a failure that endangers performance of this contract and may result in termination for default [see FAR 52.249–6, Termination (Cost Reimbursement)].
- (h) These provisions shall be flowed down only to first tier subcontracts exceeding the simplified acquisition threshold that support operation of the DOE facility and offer significant subcontracting opportunities for energy efficient or environmentally sustainable products or services. The Subcontractor will comply with the procedures in paragraphs (c) through (f) of this clause regarding the collection of all data necessary to generate the reports required under paragraphs (c) through (f) of this clause, and submit the reports directly to the Prime Contractor’s Environmental Sustainability Coordinator at the supported facility. The Subcontractor will advise the Contractor if it is unable to procure energy efficient and environmentally sustainable items and cite which of the reasons in paragraph (c) of this clause apply. The reports may be submitted at the conclusion of the subcontract term provided that the subcontract delivery term is not multi-year in nature. If the delivery term is multi-year, the Subcontractor shall report its accomplishments for each Federal fiscal year in a manner and at a time or times acceptable to both parties. Failure to comply with these reporting requirements may be considered a breach of contract with attendant consequences.
- (i) When this clause is used in a subcontract, the word “Contractor” will be understood to mean “Subcontractor.”

**I.132 DEAR 952.226-74 DISPLACED EMPLOYEES HIRING PREFERENCE
(JUN 1997)**

- (a) 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), (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 (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the particular position is available.

- (b) Consistent 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 a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.
- (c) 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.

I.133 DEAR 952.227-82 RIGHTS TO PROPOSAL DATA (APR 1994)

Except for technical data contained on pages TBD of the contractor's proposal dated TBD which are asserted by the contractor as being proprietary data, 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. [62 FR 2310, Jan. 16, 1997]

I.134 DEAR 952.231-71 INSURANCE – LITIGATION AND CLAIMS (JUL 2013)

- (a) The contractor must comply with 10 CFR part 719, contractor Legal Management Requirements, if applicable.
- (b) (1) Except as provided in paragraph (b)(2) of this clause, the contractor shall procure and maintain such bonds and insurance as required by law or approved in writing by the Contracting Officer.
- (2) The contractor may, with the approval of the Contracting Officer, maintain a self-insurance program in accordance with FAR 28.308; provided that, with respect to workers' compensation, the contractor is qualified pursuant to statutory authority.
- (3) All bonds and insurance required by this clause shall be in a form and amount and for those periods as the Contracting Officer may require or approve and with sureties and insurers approved by the Contracting Officer.
- (c) The contractor agrees to submit for the Contracting Officer's approval, to the extent and in the manner required by the Contracting Officer, any other bonds and insurance that are maintained by the contractor in connection with the performance of this

- contract and for which the contractor seeks reimbursement. If an insurance cost (whether a premium for commercial insurance or related to self-insurance) includes a portion covering costs made unallowable elsewhere in the contract, and the share of the cost for coverage for the unallowable cost is determinable, the portion of the cost that is otherwise an allowable cost under this contract is reimbursable to the extent determined by the Contracting Officer.
- (d) Except as provided in paragraph (f) of this clause, or specifically disallowed elsewhere in this contract, the contractor shall be reimbursed--
- (1) For that portion of the reasonable cost of bonds and insurance allocable to this contract required in accordance with contract terms or approved under this clause, and
 - (2) For liabilities (and reasonable expenses incidental to such liabilities, including litigation costs) to third persons not compensated by insurance without regard to the limitation of cost or limitation of funds clause of this contract.
- (d) The Government's liability under paragraph (d) of this clause is subject to the availability of appropriated funds. Nothing in this contract shall be construed as implying that the Congress will, at a later date, appropriate funds sufficient to meet deficiencies.
- (f) (1) Notwithstanding any other provision of this contract, the contractor shall not be reimbursed for liabilities to third parties, including contractor employees, and directly associated costs which may include but are not limited to litigation costs, counsel fees, judgment and settlements—
- (i) Which are otherwise unallowable by law or the provisions of this contract, including the cost reimbursement limitations contained in 48 CFR part 31, as supplemented by 48 CFR 970.31;
 - (ii) For which the contractor has failed to insure or to maintain insurance as required by law, this contract, or by the written direction of the Contracting Officer; or
 - (iii) Which were caused by contractor managerial personnel's—
 - (A) Willful misconduct;
 - (B) Lack of good faith; or
 - (C) Failure to exercise prudent business judgment, which means failure to act in the same manner as a prudent person in the conduct of competitive business; or, in the case of a non-profit educational institution, failure to act in the manner that a prudent person would under the circumstances prevailing at the time the decision to incur the cost is made.
- (2) The term “contractor’s managerial personnel” is defined in the Property clause in this contract.
- (g) (1) All litigation costs, including counsel fees, judgments and settlements shall be segregated and accounted for by the contractor separately. If the Contracting Officer

- provisionally disallows such costs, then the contractor may not use funds advanced by DOE under the contract to finance the litigation.
- (2) Punitive damages are not allowable unless the act or failure to act which gave rise to the liability resulted from compliance with specific terms and conditions of the contract or written instructions from the Contracting Officer.
 - (3) The portion of the cost of insurance obtained by the contractor that is allocable to coverage of liabilities referred to in paragraph (f) of this clause is not allowable.
- (h) The contractor may at its own expense and not as an allowable cost procure for its own protection insurance to compensate the contractor for any unallowable or non-reimbursable costs incurred in connection with contract performance.

I.135 DEAR 952.242-70 TECHNICAL DIRECTION (DEC 2000)

- (a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer's Representative (COR). The term "technical direction" is defined to include, without limitation:
 - (1) Providing direction to the Contractor that redirects contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual Statement of Work.
 - (2) Providing written information to the Contractor that assists in interpreting drawings, specifications, or technical portions of the work description.
 - (3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the Government.
- (b) The Contractor will receive a copy of the written COR designation from the Contracting Officer. It will specify the extent of the COR's authority to act on behalf of the Contracting Officer.
- (c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that—
 - (1) Constitutes an assignment of additional work outside the Statement of Work;
 - (2) Constitutes a change as defined in the contract clause entitled "Changes;"
 - (3) In any manner causes an increase or decrease in the total estimated contract cost, the fee (if any), or the time required for contract performance;
 - (4) Changes any of the expressed terms, conditions or specifications of the contract;
or
 - (5) Interferes with the Contractor's right to perform the terms and conditions of the contract.

- (d) All technical direction shall be issued in writing by the COR.
- (e) The Contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the Contractor must not proceed and must notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and must request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer must—
 - (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;
 - (2) Advise the Contractor in writing within a reasonable time that the Government will issue a written change order; or
 - (3) Advise the Contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR.
- (f) A failure of the Contractor and Contracting Officer either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect to the technical direction will be subject to the provisions of the clause entitled "Disputes."

I.136 DEAR 952.247-70 FOREIGN TRAVEL (JUN 2010)

Contractor foreign travel shall be conducted pursuant to the requirements contained in DOE Order 551.1C, or its successor, Official Foreign Travel, or its successor in effect at the time of award.

I.137 DEAR 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (JUN 1996)

- (a) Authority. This clause is incorporated into this contract pursuant to the authority contained in subsection 170d. of the Atomic Energy Act of 1954, as amended (hereinafter called the Act.)
- (b) Definitions. The definitions set out in the Act shall apply to this clause.
- (c) Financial protection. Except as hereafter permitted or required in writing by DOE, the contractor will not be required to provide or maintain, and will not provide or maintain at Government expense, any form of financial protection to cover public liability, as described in paragraph (d)(2) below. DOE may, however, at any time require in writing that the contractor provide and maintain financial protection of such a type and in such amount as DOE shall determine to be appropriate to cover such

public liability, provided that the costs of such financial protection are reimbursed to the contractor by DOE.

- (d) (1) Indemnification. To the extent that the contractor and other persons indemnified are not compensated by any financial protection permitted or required by DOE, DOE will indemnify the contractor and other persons indemnified against (i) claims for public liability as described in subparagraph (d)(2) of this clause; and (ii) such legal costs of the contractor and other persons indemnified as are approved by DOE, provided that DOE's liability, including such legal costs, shall not exceed the amount set forth in section 170e.(1)(B) of the Act in the aggregate for each nuclear incident or precautionary evacuation occurring within the United States or \$100 million in the aggregate for each nuclear incident occurring outside the United States, irrespective of the number of persons indemnified in connection with this contract.
- (2) The public liability referred to in subparagraph (d)(1) of this clause is public liability as defined in the Act which (i) arises out of or in connection with the activities under this contract, including transportation; and (ii) arises out of or results from a nuclear incident or precautionary evacuation, as those terms are defined in the Act.
- (e) (1) Waiver of Defenses. In the event of a nuclear incident, as defined in the Act, arising out of nuclear waste activities, as defined in the Act, the contractor, on behalf of itself and other persons indemnified, agrees to waive any issue or defense as to charitable or governmental immunity.
- (2) In the event of an extraordinary nuclear occurrence which:
 - (i) Arises out of, results from, or occurs in the course of the construction, possession, or operation of a production or utilization facility; or
 - (ii) Arises out of, results from, or occurs in the course of transportation of source material, by-product material, or special nuclear material to or from a production or utilization facility; or
 - (iii) Arises out of or results from the possession, operation, or use by the contractor or a subcontractor of a device utilizing special nuclear material or by-product material, during the course of the contract activity; or
 - (iv) Arises out of, results from, or occurs in the course of nuclear waste activities, the contractor, on behalf of itself and other persons indemnified, agrees to waive:

(A) Any issue or defense as to the conduct of the claimant (including the conduct of persons through whom the claimant derives its cause of action) or fault of persons indemnified, including, but not limited to:

1. Negligence;
2. Contributory negligence;
3. Assumption of risk; or
4. Unforeseeable intervening causes, whether involving the conduct of a third person or an act of God;

(B) Any issue or defense as to charitable or governmental immunity; and

(C) Any issue or defense based on any statute of limitations, if suit is instituted within 3 years from the date on which the claimant first knew, or reasonably could have known, of his injury or change and the cause thereof. The waiver of any such issue or defense shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action. The waiver shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified.

(v) The term extraordinary nuclear occurrence means an event which DOE has determined to be an extraordinary nuclear occurrence as defined in the Act. A determination of whether or not there has been an extraordinary nuclear occurrence will be made in accordance with the procedures in 10 CFR part 840.

(vi) For the purposes of that determination, "offsite" as that term is used in 10 CFR part 840 means away from "the contract location" which phrase means any DOE facility, installation, or site at which contractual activity under this contract is being carried on, and any contractor-owned or controlled facility, installation, or site at which the contractor is engaged in the performance of contractual activity under this contract.

(3) The waivers set forth above:

(i) Shall be effective regardless of whether such issue or defense may otherwise be deemed jurisdictional or relating to an element in the cause of action;

- (ii) Shall be judicially enforceable in accordance with its terms by the claimant against the person indemnified;
 - (iii) Shall not preclude a defense based upon a failure to take reasonable steps to mitigate damages;
 - (iv) Shall not apply to injury or damage to a claimant or to a claimant's property which is intentionally sustained by the claimant or which results from a nuclear incident intentionally and wrongfully caused by the claimant;
 - (v) Shall not apply to injury to a claimant who is employed at the site of and in connection with the activity where the extraordinary nuclear occurrence takes place, if benefits therefor are either payable or required to be provided under any workmen's compensation or occupational disease law;
 - (vi) Shall not apply to any claim resulting from a nuclear incident occurring outside the United States;
 - (vii) Shall be effective only with respect to those obligations set forth in this clause and in insurance policies, contracts or other proof of financial protection; and
 - (viii) Shall not apply to, or prejudice the prosecution or defense of, any claim or portion of claim which is not within the protection afforded under (A) the limit of liability provisions under subsection 170e. of the Act, and (B) the terms of this agreement and the terms of insurance policies, contracts, or other proof of financial protection.
- (f) Notification and litigation of claims. The contractor shall give immediate written notice to DOE of any known action or claim filed or made against the contractor or other person indemnified for public liability as defined in paragraph (d)(2). Except as otherwise directed by DOE, the contractor shall furnish promptly to DOE, copies of all pertinent papers received by the contractor or filed with respect to such actions or claims. DOE shall have the right to, and may collaborate with, the contractor and any other person indemnified in the settlement or defense of any action or claim and shall have the right to (1) require the prior approval of DOE for the payment of any claim that DOE may be required to indemnify hereunder; and (2) appear through the Attorney General on behalf of the contractor or other person indemnified in any action brought upon any claim that DOE may be required to indemnify hereunder, take charge of such action, and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by DOE, the contractor or other person indemnified shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

- (g) Continuity of DOE obligations. The obligations of DOE under this clause shall not be affected by any failure on the part of the contractor to fulfill its obligation under this contract and shall be unaffected by the death, disability, or termination of existence of the contractor, or by the completion, termination or expiration of this contract.
- (h) Effect of other clauses. The provisions of this clause shall not be limited in any way by, and shall be interpreted without reference to, any other clause of this contract, including the clause entitled Contract Disputes, provided, however, that this clause shall be subject to the clauses entitled Covenant Against Contingent Fees, and Accounts, records, and inspection, and any provisions that are later added to this contract as required by applicable Federal law, including statutes, executive orders and regulations, to be included in Nuclear Hazards Indemnity Agreements.
- (i) Civil penalties. The contractor and its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to civil penalties, pursuant to 234A of the Act, for violations of applicable DOE nuclear-safety related rules, regulations, or orders.
- (j) Criminal penalties. Any individual director, officer, or employee of the contractor or of its subcontractors and suppliers who are indemnified under the provisions of this clause are subject to criminal penalties, pursuant to 223(c) of the Act, for knowing and willful violation of the Atomic Energy Act of 1954, as amended, and applicable DOE nuclear safety-related rules, regulations or orders which violation results in, or, if undetected, would have resulted in a nuclear incident.
- (k) Inclusion in subcontracts. The contractor shall insert this clause in any subcontract which may involve the risk of public liability, as that term is defined in the Act and further described in paragraph (d)(2) above. However, this clause shall not be included in subcontracts in which the subcontractor is subject to Nuclear Regulatory Commission (NRC) financial protection requirements under section 170b. of the Act or NRC agreements of indemnification under section 170c. or k. of the Act for the activities under the subcontract.

I.138 DEAR 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNT (AUG 2009)

- (a) The Contractor shall take advantage of travel discounts offered to Federal Contractor employee travelers by AMTRAK, hotels, motels, or car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available. Vendors providing these services may require the Contractor employee to furnish them a letter of identification signed by the authorized Contracting Officer.
- (b) Contracted airlines. Contractors are not eligible for GSA contract city pair fares.

- (c) Discount rail service. AMTRAK voluntarily offers discounts to Federal travelers on official business and sometimes extends those discounts to Federal contractor employees.
- (d) Hotels/motels. Many lodging providers extend their discount rates for Federal employees to Federal contractor employees.
- (e) Car rentals. Surface Deployment and Distribution Command (SDDC) of the Department of Defense negotiates rate agreements with car rental companies that are available to Federal travelers on official business. Some car rental companies extend those discounts to Federal contractor employees.
- (f) Obtaining travel discounts.
 - (1) To determine which vendors offer discounts to Government contractors, the Contractor may review commercial publications such as the Official Airline guides Official Traveler, Innovata, or National Telecommunications. The Contractor may also obtain this information from GSA contract Travel Management Centers or the Department of Defense's Commercial Travel Offices.
 - (2) The vendor providing the service may require the Government contractor to furnish a letter signed by the contracting officer. The following illustrates a standard letter of identification.

OFFICIAL AGENCY LETTERHEAD

TO: Participating Vendor

SUBJECT: OFFICIAL TRAVEL OF GOVERNMENT CONTRACTOR

(FULL NAME OF TRAVELER), the bearer of this letter is an employee of (COMPANY NAME) which has a contract with this agency under Government contract (CONTRACT NUMBER). During the period of the contract (GIVE DATES), AND WITH THE APPROVAL OF THE CONTRACT VENDOR, the employee is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.

SIGNATURE, Title and telephone number of Contracting Officer

I.139 DEAR 970.5204-2 LAWS, REGULATIONS AND DOE DIRECTIVES (DEC 2000)

- (a) In performing work under this contract, the contractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including

- DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. A List of Applicable Laws and regulations (List A) may be appended to this contract for information purposes. Omission of any applicable law or regulation from List A does not affect the obligation of the contractor to comply with such law or regulation pursuant to this paragraph.
- (b) In performing work under this contract, the contractor shall comply with the requirements of those Department of Energy directives, or parts thereof, identified in the List of Applicable Directives (List B) appended to this contract. Except as otherwise provided for in paragraph (d) of this clause, the contracting officer may, from time to time and at any time, revise List B by unilateral modification to the contract to add, modify, or delete specific requirements. Prior to revising List B, the contracting officer shall notify the contractor in writing of the Department's intent to revise List B and provide the contractor with the opportunity to assess the effect of the contractor's compliance with the revised list on contract cost and funding, technical performance, and schedule; and identify any potential inconsistencies between the revised list and the other terms and conditions of the contract. Within 30 days after receipt of the contracting officer's notice, the contractor shall advise the contracting officer in writing of the potential impact of the contractor's compliance with the revised list. Based on the information provided by the contractor and any other information available, the contracting officer shall decide whether to revise List B and so advise the contractor not later than 30 days prior to the effective date of the revision of List B. The contractor and the contracting officer shall identify and, if appropriate, agree to any changes to other contract terms and conditions, including cost and schedule, associated with the revision of List B pursuant to the clause of this contract entitled, "Changes."
- (c) Environmental, safety, and health (ES&H) requirements appropriate for work conducted under this contract may be determined by a DOE approved process to evaluate the work and the associated hazards and identify an appropriately tailored set of standards, practices, and controls, such as a tailoring process included in a DOE approved Safety Management System implemented under the clause entitled "Integration of Environment, Safety, and Health into Work Planning and Execution." When such a process is used, the set of tailored (ES&H) requirements, as approved by DOE pursuant to the process, shall be incorporated into List B as contract requirements with full force and effect. These requirements shall supersede, in whole or in part, the contractual environmental, safety, and health requirements previously made applicable to the contract by List B. If the tailored set of requirements identifies an alternative requirement varying from an ES&H requirement of an applicable law or regulation, the contractor shall request an exemption or other appropriate regulatory relief specified in the regulation.
- (d) Except as otherwise directed by the contracting officer, the contractor shall procure all necessary permits or licenses required for the performance of work under this contract.

- (e) Regardless of the performer of the work, the contractor is responsible for compliance with the requirements of this clause. The contractor is responsible for flowing down the requirements of this clause to subcontracts at any tier to the extent necessary to ensure the contractor's compliance with the requirements.

I.140 DEAR 970.5204-3 ACCESS TO AND OWNERSHIP OF RECORDS (OCT 2014)

- (a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract, including records series described within the contract as Privacy Act systems of records, shall be the property of the Government and shall be maintained in accordance with 36 CFR, Chapter XII, Subchapter B, "Records Management." The contractor shall ensure records classified as Privacy Act system of records are maintained in accordance with FAR 52.224.2 "Privacy Act."
- (b) Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause.
 - (1) Employment-related records (such as worker's compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health-related records and similar files), and nonemployee patient medical/health-related records, excluding records operated and maintained by the Contractor in Privacy Act system of records. Employee-related systems of record may include, but are not limited to: Employee Relations Records (DOE-3), Personnel Records of Former Contractor Employees (DOE-5), Payroll and Leave Records (DOE-13), Report of Compensation (DOE-14), Personnel Medical Records (DOE-33), Employee Assistance Program (EAP) Records (DOE-34) and Personnel Radiation Exposure Records (DOE-35).
 - (2) Confidential contractor financial information, internal corporate governance records and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor's corporate headquarters);
 - (3) Records relating to any procurement action by the contractor, except for records that under 48 CFR 970.5232-3 are described as the property of the Government; and

- (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and
- (5) The following categories of records maintained pursuant to the technology transfer clause of this contract:
 - (i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.
 - (ii) The contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.
 - (iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.
- (c) Contract completion or termination. Upon contract completion or termination, the contractor shall ensure final disposition of all Government-owned records to a Federal Record Center, the National Archives and Records Administration, to a successor contractor, its designee, or other destinations, as directed by the Contracting Officer. Upon the request of the Government, the contractor shall provide either the original contractor-owned records or copies of the records identified in paragraph (b) of this clause, to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act) as appropriate. If the contractor chooses to provide its original contractor-owned records to the Government or its designee, the contractor shall retain future rights to access and copy such records as needed.
- (d) Inspection, copying, and audit of records. All records acquired or generated by the Contractor under this contract in the possession of the Contractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by the Government or its designees at all reasonable times, and the Contractor shall afford the Government or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the Contracting Officer, the Contractor shall deliver such records to a location specified by the Contracting Officer for inspection, copying, and audit. The Government or

its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.

- (e) Applicability. This clause applies to all records created, received and maintained by the contractor without regard to the date or origination of such records including all records acquired from a predecessor contractor.
- (f) Records maintenance and retention. Contractor shall create, maintain, safeguard, and disposition records in accordance with 36 CFR Chapter XII, Subchapter B, "Records Management" and the National Archives and Records Administration (NARA)-approved Records Disposition Schedules. Records retention standards are applicable for all classes of records, whether or not the records are owned by the Government or the contractor. The Government may waive application of the NARA-approved Records Disposition Schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies of records described in paragraph (b) and delivery of records described in paragraph (a) of this clause.
- (g) Subcontracts. The contractor shall include the requirements of this clause in all subcontracts that contain the Integration of Environment, Safety and Health into Work Planning and Execution clause at 952.223-71 or, the Radiation Protection and Nuclear Criticality clause at 952.223-72.

I.141 DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010)

- (a) Program Implementation. The Contractor shall, consistent with 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, incorporated herein by reference with full force and effect, develop, implement, and maintain a workplace substance abuse program.
- (b) Remedies. In addition to any other remedies available to the Government, the Contractor's failure to comply with the requirements of 10 CFR part 707 or to perform in a manner consistent with its approved program may render the Contractor subject to: the suspension of contract payments, or, where applicable, a reduction in award fee; termination for default; and suspension or debarment.
- (c) Subcontracts:
 - (1) The Contractor agrees to notify the Contracting Officer reasonably in advance of, but not later than 30 days prior to, the award of any subcontract the Contractor believes may be subject to the requirements of 10 CFR part 707, unless the Contracting Officer agrees to a different date.

- (2) The DOE Prime Contractor shall require all subcontracts subject to the provisions of 10 CFR part 707 to agree to develop and implement a workplace substance abuse program that complies with the requirements of 10 CFR part 707, Workplace Substance Abuse Programs at DOE Sites, as a condition for award of the subcontract. The DOE Prime Contractor shall review and approve each subcontractor's program, and shall periodically monitor each subcontractor's implementation of the program for effectiveness and compliance with 10 CFR part 707.
- (3) The Contractor agrees to include, and require the inclusion of, the requirements of this clause in all subcontracts, at any tier, that are subject to the provisions of 10 CFR part 707.

The following Clauses apply ONLY to the Firm-Fixed-Price Scope of the Contract:

- I.142 FAR 52.228-5 INSURANCE- WORK ON A GOVERNMENT INSTALLATION (JAN 1997)**
- I.143 FAR 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)**
- I.144 FAR 52.232-1 PAYMENTS (APR 1984)**
- I.145 FAR 52.232-8 DISCOUNTS FOR PROMPT PAYMENT (FEB 2002)**
- I.146 FAR 52.232-11 EXTRAS (APR 1984)**
- I.147 FAR 52.232-16 PROGRESS PAYMENTS (JUL 2009)**
- I.148 FAR 52.233-3 PROTEST AFTER AWARD (AUG 1996)**
- I.149 FAR 52.243-1 CHANGES- FIXED PRICE (AUG 1987), ALTERNATE II (APR 1984)**
- I.150 FAR 52.245-1 GOVERNMENT PROPERTY (APR 2012), ALTERNATE I (APR 2012)**
- I.151 FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (APR 2012)**
- I.152 FAR 52.249-8 DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984)**

The following Clauses apply ONLY to the Cost Reimbursement Scope of the Contract:

- I.153 FAR 52.228-7 INSURANCE-LIABILITY TO THIRD PERSONS (MAR 1996)**
- I.154 FAR 52.232-22 LIMITATION OF FUNDS (APR 1984)**
- I.155 FAR 52.232-25 PROMPT PAYMENT (JUL 2013) - ALTERNATE I (FEB 2002)**
- I.156 FAR 52.233-3 PROTEST AFTER AWARD (AUG 1996) – ALTERNATE I (JUNE 1985)**
- I.157 FAR 52.242-3 PENALTIES FOR UNALLOWABLE COSTS (MAY 2014)**
- I.158 FAR 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)**
- I.159 FAR 52.243-2 CHANGES- COST REIMBURSEMENT (AUG 1987), ALTERNATE I (APR 1984)**
- I.160 FAR 52.244-2 SUBCONTRACTS (OCT 2010) ALTERNATE I (JUNE 2007)**
- I.161 FAR 52.249-6 TERMINATION (COST REIMBURSEMENT) (MAY 2004)**
- I.162 FAR 52.249-14 EXCUSABLE DELAYS (APR 1984)**
- I.163 FAR 52.251-2 INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES (JAN 1991)**