

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE	PAGE OF PAGES 1 10
2. AMENDMENT/MODIFICATION NUMBER 0202	3. EFFECTIVE DATE See Block 16c	4. REQUISITION/PURCHASE REQUISITION NUMBER	5. PROJECT NUMBER (If applicable)	
6. ISSUED BY SC Consolidated Service Center Office of Science U.S. Department of Energy 9800 South Cass Avenue	CODE 892430	7. ADMINISTERED BY (If other than Item 6) Brookhaven Site Office Office of Science U.S. Department of Energy 53 Bell Avenue Building 464	CODE 06005	
8. NAME AND ADDRESS OF CONTRACTOR (Number, street, county, State and ZIP Code) Brookhaven Science Associates, LLC Attn: Kevin Fox Brookhaven National Laboratory Building 460, PO Box 5000 Upton NY 11973-5000		(X) <input type="checkbox"/>	9A. AMENDMENT OF SOLICITATION NUMBER	
CODE 027579460 FACILITY CODE N/A		<input type="checkbox"/>	9B. DATED (SEE ITEM 11)	
		(X)	10A. MODIFICATION OF CONTRACT/ORDER NUMBER DE-SC0012704	
			10B. DATED (SEE ITEM 13) 12/22/2014	

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers is extended. is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing items 8 and 15, and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

N/A

**13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.
IT MODIFIES THE CONTRACT/ORDER NUMBER AS DESCRIBED IN ITEM 14.**


CHECK ONE <input type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NUMBER IN ITEM 10A.
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation data, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input checked="" type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: FAR 43.103(a), Agreements of the parties modifying the terms of the contract.
<input type="checkbox"/>	D. OTHER (Specify type of modification and authority)

E. IMPORTANT: Contractor is not is required to sign this document and return 1 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

See pages 2 -10.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Susan McKeon, Chief Financial Officer	16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Fausto R. Fernandez, Contracting Officer
15B. CONTRACTOR/OFFEROR Susan McKeon Digitally signed by Susan McKeon Date: 2022.01.28 09:41:47 -05'00' (Signature of person authorized to sign)	15C. DATE SIGNED 01/28/2022
16B. UNITED STATES OF AMERICA  Digitally signed by FAUSTO FERNANDEZ Date: 2022.01.28 13:24:18 -05'00' (Signature of Contracting Officer)	16C. DATE SIGNED 01/28/2022

Previous edition unusable

14. DESCRIPTION OF AMENDMENT/MODIFICATION continued.

A. This modification is issued to update the following contract section:

- a. Part I—The Schedule
 - Section C – Description/Specs./Work Statement
 - C.4
- b. Part II—Contract Clause
 - I.9 – FAR 52.203-13
 - I.10 – FAR 52.203-14
 - I.17A – FAR 52.204-21
 - I.17B – FAR 52.204.23
 - I.17C – FAR 52.204-25
 - I.19 – FAR 52.209-6
 - I.22 – FAR 52.210-1
 - I.27 – FAR 52.215-14
 - I.33 – FAR 52.219-9
 - I.40A – FAR 52.222-19
 - I.48 – FAR 52.222-50
 - I.49 – FAR 52.222-54
 - I.65 – FAR 52.225-1
 - I.67 – FAR 52.225-9
 - I.78 – FAR 52.232-40
 - I.88 – FAR 52.244-6
 - I.88A – FAR 52.246-26
 - I.91 – FAR 52.247-64
- c. Part III—List of Documents, Exhibits, Attachments
 - Section J – List of Attachments
 - Appendix I

B. Table of Changes

PART I, SECTION C — DESCRIPTION/SPECS./WORK STATEMENT

Clause No.	Title	Change & Explanation
C.4	Statement of Work	<p>Change: Update section (b)(1).</p> <p>Explanation: This section is revised to update major SC programs and facilities.</p>

PART II, SECTION I — CONTRACT REQUIREMENTS

Clause No.	Title	Change & Explanation
I.9	FAR 52.203-13, Contractor Code of Business Ethics and Conduct (JUN 2020)	<p>Description of Change: Amend section 52.203-13 by:</p> <ul style="list-style-type: none"> a. Revising the date of the clause; and b. Removing from paragraph (c) the term “commercial item” and adding “commercial product or commercial service” in its place. <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.10	FAR 52.203-14, Display of Hotline Poster(s) (JUN 2020)	<p>Description of Change: Amend section 52.203-14 by:</p> <ul style="list-style-type: none"> a. Revising the date of the clause; and b. Removing from paragraph (d)(1) the term “commercial item” and adding “commercial product or commercial service” in its place. <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.17A	FAR 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (JUN 2016)	<p>Description of Change: Amend section 52.204-21 by:</p> <ul style="list-style-type: none"> a. Revising the date of the clause; and b. Removing from paragraph (c) the term “commercial items” and adding “commercial products or commercial services” in its place. <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.17B	FAR 52.204.23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by	<p>Description of Change: Amend section 52.204-23 by:</p> <ul style="list-style-type: none"> a. Revising the date of the clause; and

	Kaspersky Lab and Other Covered Entities (JUL 2018)	<p>b. Removing from paragraph (d) the phrases “in all subcontracts,” and “commercial items” and adding “in all subcontracts” and “commercial products or commercial services” in their places, respectively.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.17C	FAR 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services and Equipment (AUG 2020)	<p>Description of Change: Amend section 52.204-25 by:</p> <p>a. Revising the date of the clause; and</p> <p>b. Removing from paragraph (e) the term “commercial items” and adding “commercial products or commercial services” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.19	FAR 52.209-6, Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (JUN 2020)	<p>Description of Change: Amend section 52.209-6 by—</p> <p>a. Revising the date of the clause;</p> <p>b. Removing from paragraph (a) introductory text the word “item” and adding “<i>item</i>” in its place;</p> <p>c. Removing from paragraph (a)(1)(i) the phrase “commercial item (as defined in paragraph (1) of the definition in” and adding “commercial product (as defined in paragraph (1) of the definition of “commercial product” in” in its place; and</p> <p>d. Removing from paragraph (e) the term “commercial items” and adding “commercial products or commercial services” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.22	FAR 52.210-1, Market Research (JUN 2020)	<p>Description of Change: Amend section 52.210-1 by—</p> <p>a. Revising the date of the clause;</p> <p>b. Revising paragraph (a);</p>

		<p>c. Revising the introductory text of paragraph (b);</p> <p>d. Removing from the introductory text of paragraph (b)(1) the phrase “commercial items or, to the extent commercial items” and adding “commercial products, commercial services, or, to the extent commercial products” in its place; and</p> <p>e. Removing from paragraph (b)(2) the term “commercial items” and adding “commercial products, commercial services,” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.27	FAR 52.215-14, Integrity of Unit Prices (JUN 2020)	<p>Description of Change: Amend section 52.215-14 by—</p> <p>a. Revising the date of the clause; and</p> <p>b. Removing from paragraph (c) the term “commercial items” and adding “commercial products and commercial services” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.33	FAR 52.219-9, Small Business Subcontracting Plan (Sep 2021) (Alternate IV)	<p>Description of Change: Amend section 52.219-9 by—</p> <p>a. Revising the date of the clause</p> <p>b. Removing from paragraph (b) the definition of “Commercial item”; c. Removing from the definition of “Commercial plan” the term “commercial items” and adding “commercial products and commercial services” in its place;</p> <p>d. Adding, in alphabetical order, the definitions “Commercial product” and “Commercial service”;</p> <p>e. Removing from paragraph (g) the terms “commercial items” and “commercial item” and adding “commercial products and commercial services” and “commercial product or commercial service” in their places, respectively; and</p> <p>f. In paragraph (j):</p> <p>i. Removing the term “52.212-5” and adding in its place “FAR 52.212-5”;</p>

		<p>ii. Removing the term “Commercial Items” wherever it appears and adding in its place “Commercial Products and Commercial Services”;</p> <p>iii. Removing the term “commercial item” and adding in its place “commercial product or commercial service”;</p> <p>and</p> <p>iv. Removing the term “52.244-6” and adding “FAR 52.244-6” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.40A	FAR 52.222-19, Child Labor - Cooperation with Authorities and Remedies (JAN 2020)	<p>Description of Change: Amend section 52.222-19 by—</p> <p>Revising the date of the clause; and</p> <p>Removing from paragraph (a)(3) “\$83,099” and adding “\$92,319” in its place; and</p> <p>Removing from paragraph (a)(4) “\$182,000” and adding “\$183,000” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-18; Federal Acquisition Circular (FAC) 2022-03, and Federal Acquisition Regulation (FAR) amendments, published in the December 30, 2021 Federal Register at 86 FR 74528.</p>
I.48	FAR 52.222-50, Combating Trafficking In Persons (OCT 2020)	<p>Description of Change: Amend section 52.222-50 by—</p> <p>a. Revising the date of the clause; and</p> <p>b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”:</p> <p>i. Removing the word “means” in the introductory text; and</p> <p>ii. Revising paragraph (1) introductory text and (1)(i).</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.49	FAR 52.222-54, Employment Eligibility Verification (OCT 2015)	<p>Description of Change: Amend section 52.222-54 by—</p>

		<p>a. Revising the date of the clause;</p> <p>b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, revising paragraph (1)(i); and</p> <p>c. Removing from paragraph (e)(1)(i) the term “Commercial or noncommercial services” and adding “Services” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.65	<p>FAR 52.225-1, Buy American – Supplies (JAN 2021) Modified By DEAR 970.2570 (NOV 2010)</p>	<p>Description of Change: Amend section 52.225-1 by—</p> <p>a. Revising the date of the clause; and</p> <p>b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, revising paragraph (1)(i).</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.67	<p>FAR 52.225-9, Buy American—Construction Materials (FEB 2021)</p>	<p>Description of Change: Amend section 52.225-9 by—</p> <p>a. Revising the date of the clause; and</p> <p>b. In paragraph (a), in the definition of “Commercially available off-the-shelf (COTS) item”, revising paragraph (1)(i); and</p> <p>c. Removing from paragraph (b)(2) the term “commercial item” and adding “commercial product” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.78	<p>FAR 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)</p>	<p>Description of Change: Amend section 52.232-40 by—</p> <p>a. Revising the date of the clause; and</p>

		<p>b. Removing from paragraph (c) the term “commercial items” and adding “commercial products or commercial services” in its place.</p> <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
<p>I.88</p>	<p>FAR 52.244-6, Subcontracts for Commercial Items (JUL 2021)</p>	<p>Description of Change: Amend section 52.244-6 by—</p> <ul style="list-style-type: none"> a. Revising the section heading; b. Revising the heading and date of the clause; c. Revising paragraph (a); d. Removing from paragraph (b) the term “commercial items” and adding “commercial products, commercial services,” in its place; e. Removing from the paragraph (c)(1) introductory text the term “commercial items” and adding “commercial products or commercial services” in its place; f. Removing from paragraph (c)(1)(i) the date “(JUN 2020)” and adding “(NOV 2021)” in its place; g. Removing from paragraph (c)(1)(iv) the date “(JUN 2016)” and adding “(NOV 2021)” in its place; h. Removing from paragraph (c)(1)(v) the date “(JUL 2018)” and adding “(NOV 2021)” in its place; i. Removing from paragraph (c)(1)(vi) the date “(AUG 2020)” and adding “(NOV 2021)” in its place; j. Removing from paragraph (c)(1)(xiv)(A) the date “(OCT 2020)” and adding “(NOV 2021)” in its place; k. Removing from paragraph (c)(1)(xix) the date “(DEC 2013)” and adding “(NOV 2021)” in its place; l. Removing from paragraph (c)(1)(xx) the date “(FEB 2006)” and adding “(NOV 2021)” in its place; and m. Removing from paragraph (c)(2) the term “commercial items” and adding “commercial products or commercial services” in its place. <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>

I.88A	FAR 52.246-26, Reporting Nonconforming Items (JUN 2020)	<p>Description of Change: Amend section 52.246-26 by—</p> <ul style="list-style-type: none">a. Revising the date of the clause;b. Removing from paragraph (g)(1)(i) the term “FAR” and adding “Federal Acquisition Regulation (FAR)” in its place; andc. Removing from paragraph (g)(2)(i) the words “Commercial items” and adding “Commercial products and commercial services” in its place. <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>
I.91	FAR 52.247-64, Preference for Privately Owned U.S.- Flag Commercial Vessels (FEB 2006)	<p>Description of Change: Amend section 52.247-64 by—</p> <ul style="list-style-type: none">a. Revising the date of clause;b. Removing from paragraph (e)(4) introductory text the term “commercial items” and adding “commercial products or commercial services” in its place;c. Revising the date of Alternate II;d. Removing from paragraph (e)(4) introductory text of Alternate II the term “commercial items” and adding “commercial products or commercial services” in its place; ande. Removing from paragraph (e)(4)(ii)(C) of Alternate II the term “commercial items” and adding “commercial products” in its place. <p>Explanation: This clause is updated IAW PF 2022-07; Federal Acquisition Circular (FAC) 2022-01, and Federal Acquisition Regulation (FAR) amendments, published in the November 4, 2021, Federal Register at 86 FR 61016.</p>

PART III, SECTION J — LIST OF DOCUMENTS, EXHIBITS, ATTACHMENTS

Appendix	Title	Change & Explanation
I	DOE Directives/List B	<p>Description of Change: Update the following directives.</p> <p>Add:</p> <ul style="list-style-type: none">• DOE Oder 473.1A, Physical Protection Program• DOE Order 473.2A, Protective Force Operations• DOE O 470.4B Chg. 3 (Ltd.Chg.), Safeguards and Security Program <p>Deleted: DOE Order 470.4B Chg. 2 (Min.Chg.), Safeguards and Security Program, dated 1/17/2017.</p> <p>Removed: Compliance Note from DOE Order 486.1A, Foreign Government Sponsored or Affiliated Activities</p> <p>Explanation: This appendix is being revised; replace the prior version with the attached Appendix I identified as Modification No. 0202.</p>

**C. ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.
END OF MODIFICATION**

SECTION C

DESCRIPTION/SPECS./WORK STATEMENT

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C.1 INTRODUCTION

Brookhaven National Laboratory (BNL or the Laboratory) is one of DOE's Office of Science (SC) multi-program national laboratories. The Laboratory is a Federally Funded Research and Development Center (FFRDC) established in accordance with the Federal Acquisition Regulation (FAR) Part 35 and operated under this management and operating (M&O) contract, as defined in FAR 17.6 and DOE Acquisition Regulation (DEAR) 917.6.

The Laboratory supports DOE's strategic themes in energy security, nuclear security, scientific discovery and innovation, environmental responsibility, and management excellence, in accomplishing the Department's mission. The Laboratory mission is to conduct basic and applied research and development (R&D) to advance scientific knowledge, the nation's energy resources, national security, environmental quality, and to strengthen educational foundations and national economic competitiveness. DOE programs are carried out in partnership with academia, the private sector, other DOE national laboratories, the international scientific community, and other government agencies. The Laboratory also performs work consistent with the DOE mission for entities other than DOE. The Contractor will advance the frontiers of science and technology through broad interdisciplinary R&D programs that answer fundamental questions, solve technical problems (locally, regionally, nationally, and internationally), and develop and apply technologies to address societal needs.

DOE employs a Performance Based Management Contract (PBMC) to enable the Contractor to achieve highly effective and efficient management of the Laboratory resulting in a safe and secure environment, outstanding science and technology results, more cost-effective operations, and enhanced Contractor accountability.

The Contractor has the responsibility for total performance under the contract, including determining the specific methods for accomplishing the work effort, performing quality control, and assuming accountability for accomplishing the work under the contract. Accordingly, this PBMC provides flexibility, within the terms and conditions of the contract, to the Contractor in managing and operating the Laboratory.

Desired results of this contract include improved Contractor operational efficiencies, allocations of Contractor oversight resources to direct mission work, and streamlined and more effective line management focused on a systems-based approach with increased reliance on the results obtained from certified, nationally recognized experts and other independent reviewers.

Under this PBMC, it is the Contractor's responsibility to develop and implement innovative approaches and adopt practices that foster continuous improvement in accomplishing the mission of the Laboratory. DOE expects the Contractor to employ effective and efficient management structures, systems, and operations that maintain high levels of quality, safety and security in accomplishing the work required under this contract, and that, to the extent practicable and appropriate, rely on national, commercial, and industrial standards that can be verified and certified by independent, nationally recognized experts and other independent reviewers.

C.2 IMPLEMENTATION OF DOE'S MISSION FOR BNL

The Laboratory's mission focus is in nuclear physics, condensed matter physics and materials sciences, high-energy physics, chemistry, and biology, with additional expertise in environmental sciences, energy technologies, and national security. BNL brings specific strengths and competencies to the DOE laboratory system to produce excellent science and advanced technologies with the cooperation and involvement of the scientific and local communities. In support of its Office of Science (SC) mission, BNL builds and operates major scientific facilities. These facilities serve not only the basic research of the DOE, but they reflect BNL and DOE stewardship of national research infrastructure that is made available on a competitive basis to a wide range of university, industry, and government researchers.

C.3 CORE EXPECTATIONS

(a) General

The relationship between DOE and its national laboratory management and operating contractors is designed to bring best practices for research and development to bear on the Department's missions. Through application of these best practices, the Department seeks to assure both outstanding programmatic and operational performance of today's research programs and the long-term quality, relevance, and productivity of the laboratories against tomorrow's needs. Accordingly, DOE has substantial expectations of the Contractor in the areas of: program delivery (or development) and mission accomplishment; laboratory stewardship; and excellence in laboratory operations and operational business management.

(b) Program Development and Mission Accomplishment

The Contractor is expected to provide effective planning, management, and execution of assigned research and development programs. The Contractor is expected to execute assigned programs so as to strive for the greatest possible impact on achieving DOE's mission objectives, to aggressively manage the Laboratory's science and technology capabilities and intellectual property to meet these objectives, and to bring forward innovative concepts and research proposals that are well-aligned with DOE missions. The Contractor shall propose work that is aligned with, and likely to advance, DOE's mission objectives, and that is well matched to Laboratory capabilities. The Contractor shall strive to meet the highest standards of scientific quality and productivity, "on-time, on budget, as promised" delivery of program deliverables, and first-rate service to the research community through user facility operation.

The Contractor is expected to demonstrate benefit to the nation from R&D investments by transferring technology to the private sector and supporting excellence in science and mathematics education to the extent such activities are consistent with achieving continuous progress towards DOE's core missions.

(c) Laboratory Stewardship

The Contractor shall be an active partner with DOE in assuring that the Laboratory is renewed and enhanced to meet future mission needs. Within the constraints of available resources and other contract requirements, the Contractor, in partnership with DOE, shall:

- (1) Maintain an understanding of DOE's evolving Laboratory vision and long-term strategic plan and address the evolution of Laboratory capabilities to meet anticipated DOE and national needs.
- (2) Attract, develop, and retain an outstanding work force, with the skills and capabilities to meet DOE's evolving mission needs.
- (3) Renew and enhance research facilities and equipment so that the Laboratory remains at the state-of-the-art over time and is well-positioned to meet future DOE needs.
- (4) Build and maintain a viable portfolio of research programs that generates the resources required to renew and enhance Laboratory research capabilities over time.

- (5) Build and maintain a positive relationship with the broader national and international research community, to enhance the intellectual vitality and research relevance of the Laboratory, and to bring the best possible capabilities to bear on DOE mission needs through partnerships.
- (6) Build a positive, supportive relationship founded on openness and trust with the community and region in which the Laboratory is located.

(d) Operational and Business Management

The Contractor shall effectively and efficiently manage and operate the Laboratory through best-in class management practices designed to foster world-class research. Contractor shall, at the same time, protect and properly maintain DOE property, facilities, and intellectual assets; as well as ensure the health, safety and security of workers, the public and the environment. The Contractor shall operate the Laboratory in accordance with all applicable laws, regulations, and requirements. The Contractor shall manage the Laboratory cost-effectively, while providing the greatest possible research output per dollar of research investment, and, accordingly, develop, deploy and maintain integrated management systems and practices that are designed to enhance research quality, productivity and mission accomplishment consistent with meeting operational requirements.

C.4 STATEMENT OF WORK

(a) General

The Contractor shall, in accordance with the provisions of this contract, provide the intellectual leadership and management expertise necessary and appropriate to manage, operate, and staff BNL; to accomplish the missions assigned by the DOE to the Contractor; and, to perform all other work described in this Statement of Work (SOW). DOE missions are assigned through strategic planning, program coordination, and cooperation between the Contractor and DOE.

Inasmuch as the assigned missions of the Laboratory are dynamic, this SOW is not intended to be all-inclusive or restrictive, but it is intended to provide a broad framework and general scope of the work to be performed at BNL during the term of this contract. This SOW does not

represent a commitment to, or imply funding for, specific projects or programs. All projects and programs will be authorized individually by DOE and/or other work sponsors in accordance with the provisions of this contract.

All work under this contract shall be conducted in a manner that protects the environment, assures the safety, health, and security of employees and the public, and protects the safety and security of federal real, personal, and intellectual property. In performing the contract work, the Contractor shall implement appropriate program, operational and project management systems to ensure safe operations; track progress and maximize cost-effectiveness of work activities; develop integrated plans and schedules to achieve program objectives incorporating input from DOE and stakeholders; maintain sufficient technical expertise to manage activities and projects throughout the life of a program; utilize appropriate technologies and management systems to improve cost efficiency and performance; and, maintain Laboratory facilities and infrastructure as necessary to accomplish assigned missions.

(b) Research and Development

The central mission of the Laboratory is to provide scientific leadership needed to carry out world class science and technological innovation to support the programs and missions of SC and DOE (<http://science.energy.gov/sc-3/mission-and-functions/>). While the Laboratory originated as a nuclear science facility, its primary mission focus has evolved to span multiple programs leading research and development in the physical, energy, environmental, and life sciences, with additional activities in energy technologies and national security. A central aspect of this mission, involving its accelerator science and technology core competency, is the conceptualization, design, construction, and operation of major scientific user facilities available to university, industry and government researchers.

(1) Mission Accomplishment

The science and technology delivered by the Laboratory is to have meaningful impacts on the relevant technical fields, and provide quality leadership that advances the mission goals of the DOE, the sponsoring program, and the scientific community. The primary sponsor of work at the Laboratory is DOE SC. Additionally, the Contractor may be authorized to pursue other DOE and non-DOE programs, such as Strategic Partnership Projects (SPP), Strategic Intelligence Partnership Program (SIPP) and Laboratory Directed Research and Development (LDRD), that serve to integrate core capabilities and deploy science and technology to industry in

support of the broader DOE mission. Other DOE program sponsors may include National Nuclear Security Administration (NNSA), Environmental Management (EM), Energy Efficiency and Renewable Energy (EERE), and Nuclear Energy (NE). Currently, the most notable non-DOE sponsors are the National Aeronautics and Space Administration (NASA), Department of Homeland Security (DHS), Nuclear Regulatory Commission (NRC), National Institutes of Health (NIH), Department of Defense (DOD), Department of State (DOS), and New York State (NYS).

The current major SC programs and synergistic efforts are summarized below:

(i) Nuclear Physics (NP)

The Contractor shall perform frontier research in experimental and theoretical nuclear physics; build, maintain, and operate state of the art user facilities for nuclear physics; perform research and development work in accelerator science, experimental detector design and computing for the SC Nuclear Physics program; operate the National Nuclear Data Center (NNDC); operate an isotope production facility; perform research in accelerator driven isotope production techniques; and carry out construction projects in the nuclear physics area as assigned.

(ii) Basic Energy Sciences (BES)

The Contractor shall perform frontier research in broad areas of condensed matter and materials physics, chemistry, geosciences, and biosciences; build, maintain, and operate world-class major scientific user facilities in furtherance of BES research priorities that host external scientific user communities as well as Laboratory researchers and industry users. Laboratory programs are to take advantage of the unique scientific user facilities including the National Synchrotron Light Source II (NSLS-II) and the Center for Functional Nanomaterials (CFN). The Contractor shall manage all aspects of the design, construction, and operation of NSLS-II as well as the repurposing of NSLS.

(iii) High Energy Physics (HEP)

The Contractor shall perform frontier research in experimental and theoretical high energy physics; provide intellectual and technical leadership in international particle physics experiments; perform research and development in accelerator

science, experimental detector design and computing for the SC High Energy Physics (HEP) program, operate the Accelerator Test Facility (ATF), and carry out construction projects in the high energy physics area as assigned.

(iv) Biological and Environmental Research (BER)

The Contractor shall conduct research programs in areas including foundational genomics, structural biology, plant and microbial biochemistry, bioinformatics and computational biology, atmospheric systems, terrestrial ecosystem science and carbon sequestration and earth system modeling that build on the unique facilities and expertise available at the Laboratory.

(2) Research Facilities and Major Scientific User Facilities

Central to the Laboratory's leadership and research and development mission is the design, construction and operation of world-class major scientific user facilities and their utilization to provide impactful science and technology results to DOE, the scientific community, and industry. The Laboratory currently hosts four major scientific user facilities for DOE serving more than 3500 scientists per year. The Contractor is responsible for simultaneously maintaining complementary capabilities critical to leadership and excellence in design, construction and operation of scientific user facilities in continuous and close collaboration with DOE. Design ranges from upgrades of current facilities to conceptualizing new facilities that meet the evolving needs of state-of-the-art science with new instrumentation technologies. Construction is typically a multi-year, complex process requiring extremely detailed planning and execution to meet requirements on time and within resource limits. Operation requires efficient and effective integration of a wide range of activities including core research programs, research and development to maintain the capabilities of the facilities, partnerships involving multiple organizations and funding sources, and user support; all with particular attention to safety, security, and productivity. Operation also includes effectively managing the allocation of facility time to optimize the research program of the facility.

The operation of user facilities includes developing and maintaining user communities for the facilities. In addition to the scientific stewardship of the facilities, maintaining user communities requires accommodating the visiting scientists and students that are guests

of the Laboratory every year and maintaining the agreements to engage the user facilities. The Contractor shall maintain effective operations of existing and planned user facilities, other appropriate facilities, and provide effective customer service to ensure user facilities are user friendly, readily available, and can operate within conditions requested by user clients.

The four major SC user facilities hosted by the Laboratory are:

(i) The Relativistic Heavy Ion Collider (RHIC) facility complex

RHIC is a large accelerator complex which operates as the only remaining collider in the United States. Two international collaborations totaling ~1000 scientists are organized around the two experiments, STAR and sPHENIX. Heavy-ion collisions at RHIC probe matter at temperatures and densities representative of the early universe, microseconds after its birth. RHIC experiments discovered that the infant universe was filled with a previously unknown type of liquid matter, the quark-gluon plasma (QGP). RHIC is also the only collider with a polarized beam and carries out research to investigate the spin structure of the proton. Laboratory scientists and their collaborators are developing plans for upgrades to the existing facility for the heavy ion and polarized proton program. In addition, Laboratory scientists are leading an international effort to enable the science agenda for a future Electron Ion Collider (EIC) facility, for which the plan, is to build upon the RHIC facility infrastructure and add a high energy electron beam to collide with the existing heavy ion and polarized proton beams.

(ii) National Synchrotron Light Source II (NSLS-II)

NSLS-II is a state-of-the-art storage ring designed to deliver world leading brightness and flux with top-off operation for constant output. The facility produces x-rays up to 10,000 times brighter than those produced at the NSLS. Operations began in 2015.

(iii) Center for Functional Nanomaterials (CFN)

This Center provides researchers with state-of-the-art capabilities to fabricate and study nanoscale materials. Work at the Center has the potential to inspire new technologies and is intimately coupled with, and enabling to, numerous Laboratory programs sponsored by DOE SC.

(iv) Accelerator Test Facility (ATF)

The ATF is the DOE SC User Facility for the Accelerator Stewardship Program. It provides users with high brightness electron beams, near-infrared (NIR) and long-wave infrared (LWIR) laser beams, and an ultrafast electron diffraction (UED) facility.

(v) Other facilities

In addition to these SC sponsored national user facilities, the Laboratory operates many other facilities in furtherance of its mission. These include the Scientific Data and Computer Center (SDCC), the NASA Space Radiation Laboratory (NSRL), the Brookhaven Linac Isotope Producer (BLIP) facility, the Laser Electron Accelerator Facility (LEAF), the Tandem Van de Graaff facility, National Nuclear Data Center, Atmospheric Radiation Measurement User Facility, Laboratory for Biomolecular Structure (LBMS) and the Oxide Molecular Beam Epitaxy, Angle-Resolved Photoemission, and Spectroscopic Imaging Scanning Tunneling Microscopy (OASIS).

(3) Scientific Program Management

The Contractor shall manage the resources and capabilities of the Laboratory and provide leadership for the Laboratory as a scientific institution supporting the DOE mission. Leadership is essential in methods of integrated line management to ensure inter-laboratory team building and intra-laboratory cooperation while supplying a safe working environment. The Contractor is charged with maintaining and enhancing the intellectual resource base in order to avoid erosion of the scientific and engineering foundations at the Laboratory and to promote world leadership prominence in areas as mandated by SC. The Contractor is also responsible for the employment of the principal personnel engaged in the SOW efforts and for the readiness and training of all personnel and on-site facility users and collaborators.

Execution of the Laboratory's mission is built on its core capabilities that are each, in turn, an integration of Laboratory personnel, facilities and equipment. The current Laboratory core capabilities include nuclear and particle physics, accelerator science and technology, condensed matter physics and materials science, chemical and molecular science, climate change science and atmospheric science, biological

systems science, nuclear and radio chemistry, applied materials science and engineering, chemical engineering, systems engineering and integration, large scale user facilities / R&D facilities / advanced instrumentation, advanced computer science, visualization and data, computer science, and applied math. These capabilities exist within the Laboratory and provide a foundation to deliver its mission and customer focus, to perform a complementary role in the DOE laboratory system, and to pursue its vision for scientific excellence and pre-eminence in support of the SC and DOE missions. The stewardship of these capabilities, involving continuous improvement and development of new capabilities where required, is thus a critical aspect of the Contractor's responsibility for scientific program management at the Laboratory. The Contractor shall direct these core capabilities into creative research projects for DOE in partnership(s) with universities, other federal laboratories and agencies, and the private sector to meet the mission of the Laboratory and DOE objectives.

The Contractor shall develop and manage partnership activities in support of the DOE mission. Mechanisms for partnerships include cooperative research and development agreements, direct assistance programs, employee temporary assignments, user facility agreements, memoranda of cooperation, memoranda of understanding, memoranda of agreement, license agreements, privately funded technology transfer, and other arrangements as approved by DOE in which research and development resources are leveraged with private sector partners. Efforts to develop broad based partnerships with academic research institutions, other agencies, other DOE laboratories, the international scientific community, and with the private sector are essential to the long-term viability of the Laboratory.

The Contractor shall ensure the Laboratory contributes to U.S. technological competitiveness by conducting basic and applied research, and through development and demonstration activities facilitating transfer and deployment of technologies into useful products and processes through partnerships with the private sector. The Contractor shall make it possible for the private sector to join in development/operation activities with the Laboratory to enhance teamwork and technology transfer. Cooperation with industrial partners may include long-term strategic partnerships aimed at commercialization of Laboratory inventions or the improvement of industrial products. The Contractor shall respond to specific near-term technological needs of industrial companies with special emphasis given to working with the types of businesses identified in the Small Business Subcontracting Plan

clause of this contract. The Contractor may also capitalize on its location in the Northeast by developing productive relationships with regional and local companies and through forums such as conferences, workshops, and traveling presentations. It is anticipated that these organizations will be particularly effective participants in the Laboratory's technology transfer activities in promoting a mutually beneficial relationship between DOE and the communities surrounding the Laboratory.

(c) Protection of Workers, the Public and the Environment

The safety and health of workers and the public and the protection and restoration of the environment are fundamental responsibilities of the Contractor. The Contractor shall establish an environment, safety and health program operated as an integral, but visible, part of how the organization conducts business, including prioritizing work and allocating resources based on risk reduction. A key element is continued implementation of an Integrated Safety Management System to ensure all work activities are performed in a manner that prevents disruption of the Laboratory's missions by preventing fatalities, minimizing injuries and illnesses, minimizing exposures to hazardous substances and materials, preventing environmental releases in excess of established limits, and preventing property loss.

The Contractor shall maintain an organization that supports effective Environment, Safety and Health (ES&H) management by ensuring appropriate levels of ES&H staffing and competence at every level within BNL. Specifically, the Contractor shall assure that employees are trained, qualified, and involved in aspects of the organization's activities, including providing input to the planning and execution of work, and identification, mitigation, or elimination of workplace hazards. The Contractor shall, similarly, assure that subcontractor employees are trained and qualified on job tasks, hazards, DOE and BNL Departmental safety policies, expectations and requirements, and shall freely communicate applicable ES&H requirements down to subcontractors. The Contractor shall, as appropriate, consider ES&H performance in selection of its subcontractors and incorporate ES&H requirements into subcontracts.

The Contractor shall perform all activities in compliance with applicable health, safety, and environmental laws, orders, regulations, national consensus standards, governing agreements and permits executed with regulatory and oversight government organizations.

Incorporating integrated line management, the Contractor shall put in place a system that clearly communicates the roles, responsibilities, and authorities of line managers. The Contractor shall hold line managers,

including direct reports, accountable for implementing necessary controls for safe performance of work in their respective area of responsibility. The Contractor shall establish effective management systems to identify deficiencies, resolve them in a timely manner, ensure that corrective actions are implemented, (addressing the extent of conditions, root causes, and measures to prevent recurrence) and prioritize and track commitments and actions.

Finally, the Contractor shall promote effective environmental program management, through continued maintenance of ISO 14001 registration.

(d) Management and Operation of the Laboratory

The Contractor shall manage, operate, protect, maintain and enhance the Laboratory's ability to function as a DOE multi-program laboratory, provide the infrastructure and support activities, support the accomplishment of the Laboratory's missions, and assure the accountability to the DOE under the results-oriented, performance-based provisions of this contract. The Contractor shall establish and maintain an integrated management system capable of producing implementation-level plans, programs and procedures for the management and operation of the Laboratory. The Contractor shall implement a broad scope contractor assurance program to assess the overall performance in, and drive continuous improvement of Laboratory operations and management.

(1) Strategic Planning

The Contractor shall conduct a strategic planning process and develop institutional business plans and strategic facility plans in consideration of DOE provided planning guidance and strategic planning material to assure consistency with DOE missions and goals.

(2) Business Management

(i) Human Resources Management (HR)

The Contractor shall have an HR system designed to attract and retain outstanding employees in accordance with DOE expectations, policies, and procedures. The Contractor shall maintain a market based system of compensation and benefit plans to motivate employees to achieve high productivity in scientific research and laboratory operation. The Contractor also shall create and maintain at the Laboratory an environment that promotes diversity and fully utilizes the talents and capabilities of a diverse workforce.

(ii) Financial Management

The Contractor shall maintain a financial management system responsive to the obligations of sound financial stewardship and public accountability. The overall system shall include an integrated accounting system suitable to collect, record, and report all financial activities; a budgeting system that includes the formulation and executions of all resource requirements needed to accomplish projected missions and formulate short- and long-range budgets; an internal control system for all financial and other business management processes; and a disbursements system for both employee payroll and supplier payments. The internal audit group for the Laboratory shall report to the most senior governing body of the Contractor's parent organization(s).

(iii) Purchasing Management

The Contractor shall have and manage a DOE-approved purchasing system to provide purchasing support and subcontract administration. The Contractor shall, when directed by DOE, enter into subcontracts for the performance of any part of the work under this contract. The Contractor may also enter into subcontracts for the performance of any part of the work under this contract when authorized by DOE.

The Contractor shall also strive to promote diversity in all of the Laboratory's subcontracting efforts with emphasis on the use of the types of businesses identified in the Small Business Subcontracting Plan clause of this contract.

(iv) Property Management

The Contractor shall have and manage a DOE-approved property management system that provides assurance that the Government-owned, contractor-held property is accounted for, safeguarded, and disposed of in accordance with DOE's expectations and policies. The Contractor shall perform overall integrated planning, acquisition, maintenance, operation, management, and disposition of Government-owned personal and real property, and any Contractor-leased facilities and infrastructure used by the Laboratory.

(v) Legal Services

The Contractor shall maintain legal support for all contract activities including, but not limited to, those related to patents, licenses, and other intellectual property rights; subcontracts; technology transfer; environmental compliance and protection; employee and labor relations; contractor ethics; and litigation and claims.

(vi) Information Technology Management

The Contractor shall maintain information systems necessary to meet Laboratory requirements, which includes activities involving general purpose programming, data collection, data processing, report generation, software, electronic and telephone communications, and computer security. The Contractor shall provide computer resource capacity and capability sufficient to support Laboratory-wide information management requirements.

(vii) Other Services

The Contractor shall provide other services necessary for Laboratory operations, including support to the DOE Brookhaven Site Office.

(3) Project Management

The Contractor shall maintain a project management system, consistent with DOE project management requirements, to ensure that projects are completed within scope, budget, and schedule.

(4) Environmental Management

Unless otherwise directed by the Contracting Officer, the Contractor shall plan and execute the DOE's environmental program activities in accordance with DOE program goals, initiatives, strategies, guidance letters, and approved project baselines in areas such as: (i) Environmental remediation and facility deactivation, decommissioning, decontamination, and demolition in accordance with the site's Comprehensive Environmental Response Compensation and Liability Act (CERCLA) Interagency Agreement and with DOE Orders; and (ii) Construction and maintenance of facilities to provide adequate protection of the public, employees, the environment, and Government-owned materials, facilities, and equipment.

The environmental management program shall be conducted in a safe and cost-effective manner leading to increasing DOE, regulatory and public confidence in cleanup efforts. Program elements will include: (i) implementing comprehensive project management systems to track progress, maintain regulatory compliance, and increase cost effectiveness of work activities; (ii) developing integrated plans and schedules for involving the participation of DOE, regulators, and other stakeholders in decision making and priority setting of environmental restoration activities; and (iii) maintaining technical depth to propose and implement cleanup activities commensurate with commercial practices in the areas of cost, implementation, schedule, and public acceptability.

The Contractor shall establish and maintain systems to effectively manage and implement an environmental restoration program in accordance with goals and objectives set forth by the Department. The systems must ensure that the technical approach is consistent with DOE cleanup strategies to complete all Records of Decision in accordance with the current approved baseline; to implement an overall system to effectively and efficiently manage all groundwater and contaminated soil cleanup activities; to expedite final disposition of facilities awaiting decommissioning and decontamination; and to achieve delisting from the National Priority List. Contractor support shall be provided to DOE as directed by the Contracting Officer.

(5) Community Involvement

The Contractor shall maintain a systematic approach and commitment to involving the community in all aspects of the Laboratory. The Contractor's overall community involvement program shall:

- maintain a strong, integrated, proactive community involvement and communications program;
- appropriately address the community's substantive concerns;
- ensure the community's awareness of the importance of the long-term basic research supported by DOE and the SC;
- ensure the community has positive relationships with the Laboratory and confidence in its decision-making processes; and
- establish constructive external partnerships in support of DOE's overarching mission and strategic objectives.

(6) Safeguards and Security (S&S)

The Contractor shall provide a fully integrated safeguards and security program to ensure that S&S interests and activities are protected from theft, diversion, terrorist attack, industrial sabotage, radiological sabotage, chemical sabotage, biological sabotage, espionage, unauthorized access, compromise, and other acts that may have an adverse impact on national security; the environment; or pose significant danger to the health and safety of DOE Federal and contractor employees or the public. S&S programs must be based on the results of vulnerability and risk assessments which are used to design and provide graded protection in accordance with an asset's importance or the impact of its loss, destruction, or misuse. The Contractor shall provide a Protective Force (PF) capable of providing a secure environment protecting critical national security assets through the conduct of an integrated risk-based approach to security operations. The Contractor shall establish and maintain policies and procedures for PF personnel and firearms operations in accordance with established DOE requirements. The Contractor shall establish a formal PF training program which ensures appropriate personnel are competently trained, and fully qualified to perform the tasks within their assigned responsibilities under both normal and emergency conditions.

(7) Cyber Security

The Contractor shall ensure the development, operation, management, and integration of an ongoing program for cyber security management consistent with DOE requirements. The Cyber Security Program must assess risks associated with computer and network security from both external and internal perspectives. The Contractor shall develop and maintain a structured Cyber Security risk management process to ensure that priorities are established and cyber security risks are managed through a process of identifying and assessing threats, vulnerabilities, asset value, and existing protection measures; developing and implementing appropriate policies and controls; promoting awareness of those policies and controls; and monitoring, evaluating, and improving the effectiveness of policies and controls.

(8) Emergency Management

The Contractor shall maintain an emergency management system in accordance with DOE requirements including, but not limited to, emergency preparedness plans, procedures, response, drills and exercises, occurrence notification and reporting, and operation of an Emergency Operations Center.

(9) Radiological Assistance Program

The Contractor shall provide health physics and radiological protection expertise and capability in support of the NNSA Region 1 Radiological Assistance Program (RAP). As coordinated and directed by the NNSA Region 1 Regional Response Coordinator, the Contractor provide Contractor personnel to DOE-led RAP teams. The Contractor will acquire and maintain advanced radiation detection equipment, communications equipment, protective gear, and other necessary equipment and supplies to achieve the RAP mission. Contractor team members shall be fully trained in the use of detection equipment and the hazards of radiation materials.

(10) Waste Management

The Contractor shall maintain and manage a waste management program in an integrated manner such that waste is managed consistently and in compliance with all applicable regulatory requirements and DOE expectations. Waste management activities include: timely characterization, consolidation, segregation, and storage of waste; treatment that complies with storage and/or disposal criteria; efficient shipment of waste for treatment, storage, and/or disposal; maintaining sufficient and compliant waste storage space at the Laboratory to accommodate waste generation and waste backlog; and implementation of an effective waste minimization and pollution prevention programs.

(11) Laboratory Facilities and Infrastructure

The Contractor shall manage and maintain government-owned buildings and facilities at the Laboratory site, together with the utilities and associated infrastructure. Recognizing that these facilities are a national resource, they may also be made available, with appropriate agreements, to private and public sector entities including universities, industry, and local, state, and other government agencies. The Contractor shall perform overall integrated planning, acquisition, upgrades, and management of Government-owned, leased, or controlled facilities and real property accountable to the Laboratory.

The Contractor shall strive to employ facilities management practices that are best-in-class and integrated with mission assignments and business operations. The maintenance management program shall strive to maintain Government property in a manner that promotes and continuously improves operational safety, environmental protection and compliance, property preservation, and cost effectiveness; ensures continuity and reliability of operations, fulfillment of program requirements, and protection of life and property from potential hazards; and ensures the condition of the assets will be maintained or improved using risk-benefit analysis tools and processes. The Contractor will implement a capital renewal program to revitalize and/or replace facilities that cannot meet the required functionality in support of mission accomplishment.

(12) **Sustainability**

The Contractor shall assist DOE through direct participation and other support in achieving DOE's energy efficiency goals and objectives in electricity, water, and thermal consumption, conservation, and savings, including goals and objectives contained in Executive Order 13834, Efficient Federal Operations or successor version. The Contract will support DOE's use of Energy Savings Performance Contracts (ESPC) and Utility Energy Services Contracts (UESC). The Contractor shall maintain and update, as appropriate, its Site Plan to include detailed plans and milestones for achieving site-specific energy efficiency goals and objectives.

C.5 PLANS AND REPORTS

The Contractor shall submit periodic plans and reports, in such form and substance as required by the Contracting Officer. These periodic plans and reports shall be submitted at the interval, to the addresses, and in the quantities as specified by the Contracting Officer. Where specific forms are required for individual plans and reports, the Contracting Officer shall provide such forms to the Contractor. The Contractor shall require subcontractors to provide reports that correspond to data requirements the Contractor shall be responsible for submitting to DOE. Plans and reports which may be submitted in compliance with this provision are in addition to any other reporting requirements found elsewhere in other clauses of this contract. DOE intends to consult with the Contractor to determine the necessity, form, and frequency of any reports required to be submitted by the Contractor to DOE under this contract.

CLAUSE I.9 – FAR 52.203-13 – CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (NOV 2021)

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

Agent means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

Full cooperation-

- (1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;
- (2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require-
 - (i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or
 - (ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and
- (3) Does not restrict a Contractor from-
 - (i) Conducting an internal investigation; or
 - (ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

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

(b) *Code of business ethics and conduct.*

- (1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall—

- (i) Have a written code of business ethics and conduct; and
- (ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) *The Contractor shall-*

- (i) Exercise due diligence to prevent and detect criminal conduct; and
- (ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)

- (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed-

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

- (iii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.
- (iv) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

- (c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial product or commercial service as defined at FAR 2.101. The Contractor

shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

- (1) An ongoing business ethics awareness and compliance program.
 - (i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.
 - (ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.
- (2) An internal control system.
 - (i) The Contractor's internal control system shall—
 - (A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and
 - (B) Ensure corrective measures are promptly instituted and carried out.
 - (ii) At a minimum, the Contractor's internal control system shall provide for the following:
 - (A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.
 - (B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.
 - (C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including-
 - (1) Monitoring and auditing to detect criminal conduct;
 - (2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and
 - (3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business

ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

- (D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.
- (E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.
- (F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).
 - (1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.
 - (2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.
 - (3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.
 - (4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.
- (G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

- (1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that exceed the threshold specified in FAR 3.1004(a) on the date of subcontract award and a performance period of more than 120 days.

- (2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(End of Clause)

CLAUSE I.10 – FAR 52.203-14 – DISPLAY OF HOTLINE POSTER(S) (NOV 2021)

(a) *Definition.*

United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) *Display of fraud hotline poster(s).* Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites-

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the poster(s) at the website.

(3) Any required posters may be obtained as follows:

<i>Poster(s)</i>	<i>Obtain from</i>
_____	_____
_____	_____

(Contracting Officer shall insert—

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—

(1) Is for the acquisition of a commercial product or commercial service; or

(2) Is performed entirely outside the United States.

(End of Clause)

CLAUSE I.17A – FAR 52.204-21 – BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (NOV 2021)

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

Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

- (i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
- (ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
- (iii) Verify and control/limit connections to and use of external information systems.
- (iv) Control information posted or processed on publicly accessible information systems.
- (v) Identify information system users, processes acting on behalf of users, or devices.

- (vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
 - (vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
 - (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
 - (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
 - (x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
 - (xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
 - (xii) Identify, report, and correct information and information system flaws in a timely manner.
 - (xiii) Provide protection from malicious code at appropriate locations within organizational information systems.
 - (xiv) Update malicious code protection mechanisms when new releases are available.
 - (xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.
- (2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.
- (c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(End of Clause)

**CLAUSE I.17B – FAR 52.204-23 – PROHIBITION ON CONTRACTING FOR
HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR
PROVIDED BY KASPERSKY LAB AND OTHER COVERED
ENTITIES (NOV 2021)**

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

Covered article means any hardware, software, or service that—

- (1) Is developed or provided by a covered entity;
- (2) Includes any hardware, software, or service developed or provided in whole or in part by a covered entity; or
- (3) Contains components using any hardware or software developed in whole or in part by a covered entity.

Covered entity means—

- (1) Kaspersky Lab;
- (2) Any successor entity to Kaspersky Lab;
- (3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or
- (4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91) prohibits Government use of any covered article. The Contractor is prohibited from—

- (1) Providing any covered article that the Government will use on or after October 1, 2018; and
- (2) Using any covered article on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.*

- (1) In the event the Contractor identifies a covered article provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or any other source, the Contractor shall report, in writing, to the Contracting Officer or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of

the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

- (2) The Contractor shall report the following information pursuant to paragraph (c)(1) of this clause:
- (i) Within 1 business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a covered article, any reasons that led to the use or submission of the covered article, and any additional efforts that will be incorporated to prevent future use or submission of covered articles.
- (d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts including subcontracts for the acquisition of commercial products or commercial services.

(End of Clause)

CLAUSE I.17C – FAR 52.204-25 – PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (NOV 2021)

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

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People’s Republic of China.

Covered telecommunications equipment or services means—

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
- (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment; or
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Critical technology means—

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-
 - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
 - (ii) For reasons relating to regional stability or surreptitious listening;

- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

(b) *Prohibition.*

- (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104.
- (2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service

that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR 4.2104. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

- (c) *Exceptions.* This clause does not prohibit contractors from providing—
- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (d) Reporting requirement.
- (1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.
 - (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause
 - (i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

- (e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial products or commercial services.

(End of Clause)

**CLAUSE I.19 – FAR 52.209-6 – PROTECTING THE GOVERNMENT’S INTEREST
WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED,
SUSPENDED, OR PROPOSED FOR DEBARMENT (NOV 2021)**

(a) *Definition.*

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

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in Federal Acquisition Regulation (FAR)2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
 - (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.
- (b) The Government suspends or debar Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of the threshold specified in FAR 9.405-2(b) on the date of subcontract award, with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.
- (c) The Contractor shall require each proposed subcontractor whose subcontract will exceed the threshold specified in FAR 9.405-2(b) on the date of subcontract award, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.
- (d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:
- (1) The name of the subcontractor.
 - (2) The Contractor’s knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.

- (3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.
 - (4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.
- (e) Subcontracts. Unless this is a contract for the acquisition of commercial products or commercial services, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—
- (1) Exceeds the threshold specified in FAR 9.405-2(b) on the date of subcontract award; and
 - (2) Is not a subcontract for commercially available off-the-shelf items.

(End of Clause)

CLAUSE I.22 – FAR 52.210-1 – MARKET RESEARCH (NOV 2021)

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

Commercial product, commercial service, and nondevelopmental item have the meaning contained in Federal Acquisition Regulation 2.101.

(b) Before awarding subcontracts for other than commercial acquisitions, where the subcontracts are over the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, the Contractor shall conduct market research to—

(1) Determine if commercial products, commercial services, or, to the extent commercial products suitable to meet the agency's needs are not available, nondevelopmental items are available that—

(i) Meet the agency's requirements;

(ii) Could be modified to meet the agency's requirements; or

(iii) Could meet the agency's requirements if those requirements were modified to a reasonable extent; and

(2) Determine the extent to which commercial products, commercial services, or nondevelopmental items could be incorporated at the component level.

(End of Clause)

CLAUSE I.27 – FAR 52.215-14 – INTEGRITY OF UNIT PRICES (NOV 2021)

- (a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (*e.g.*, manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of certified cost or pricing data not otherwise required by law or regulation.
- (b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.
- (c) The Contractor shall insert the substance of this clause, less paragraph (b) of this clause, in all subcontracts for other than: acquisitions at or below the simplified acquisition threshold, as defined in Federal Acquisition Regulation (FAR) 2.101 on the date of subcontract award; construction or architect-engineer services under FAR part 36; utility services under FAR part 41; services where supplies are not required; commercial products and commercial services; and petroleum products.

(End of Clause)

CLAUSE I.33 – FAR 52.219-9 – SMALL BUSINESS SUBCONTRACTING PLAN (NOV 2021) (ALTERNATE IV)

- (a) This clause does not apply to small business concerns.
- (b) *Definitions.* As used in this clause—

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

Commercial plan means a subcontracting plan (including goals) that covers the offeror's fiscal year and that applies to the entire production of commercial products and commercial services sold by either the entire company or a portion thereof (*e.g.*, division, plant, or product line).

Commercial product means a product that satisfies the definition of "commercial product" in Federal Acquisition Regulation (FAR) 2.101.

Commercial service means a service that satisfies the definition of "commercial service" in FAR 2.101.

Electronic Subcontracting Reporting System (eSRS) means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

Indian tribe means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

Individual subcontracting plan means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

Master subcontracting plan means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans, provided the master subcontracting plan has been approved.

Reduced payment means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

Subcontract means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

Total contract dollars means the final anticipated dollar value, including the dollar value of all options.

Untimely payment means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract for supplies and services for which the Government has paid the prime contractor.

(c)

(1) The Contractor, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Contractor is submitting an individual subcontracting plan, the plan shall separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The subcontracting plan shall be incorporated into the contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. The subcontracting plan does not apply retroactively.

(2)

(i) The prime Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(ii) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if—

(A) The subcontractor is registered in SAM; and

- (B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.
 - (iii) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.
 - (iv) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.
- (d) The Contractor's subcontracting plan shall include the following:
- (1) Separate goals, expressed in terms of total dollars subcontracted and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Contractor shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626–
 - (i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and
 - (ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.
 - (A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.
 - (B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.
 - (C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the Contractor, and the

subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

- (D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

- (2) A statement of—
- (i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Contractor's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan, including all indirect costs, with the exception of those such as the following: Employee salaries and benefits; payments for petty cash; depreciation; interest; income taxes; property taxes; lease payments; bank fees; fines, claims, and dues; original equipment manufacturer relationships during warranty periods (negotiated up front with the product); utilities and other services purchased from a municipality or an entity solely authorized by the municipality to provide those services in a particular geographical region; and philanthropic contributions;
 - (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns; (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business; (v) Total dollars planned to be subcontracted to HUBZone small business concerns; (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and (vii) Total dollars planned to be subcontracted to women-owned small business concerns.
- (3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to
- (i) Small business concerns;
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns; and
 - (vi) Women-owned small business concerns.
- (4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

- (5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). The Contractor may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.
- (6) A statement as to whether or not the Contractor included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—
 - (i) Small business concerns (including ANC and Indian tribes);
 - (ii) Veteran-owned small business concerns;
 - (iii) Service-disabled veteran-owned small business concerns;
 - (iv) HUBZone small business concerns;
 - (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
 - (vi) Women-owned small business concerns.
- (7) The name of the individual employed by the Contractor who will administer the Contractor's subcontracting program, and a description of the duties of the individual.
- (8) A description of the efforts the Contractor will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.
- (9) Assurances that the Contractor will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Contractor will require all subcontractors (except small business concerns) that receive subcontracts in excess of the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.
- (10) Assurances that the Contractor will—

- (i) Cooperate in any studies or surveys as may be required;
 - (ii) Submit periodic reports so that the Government can determine the extent of compliance by the Contractor with the subcontracting plan;
 - (iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for an indefinite-delivery, indefinite-quantity for use by multiple agencies;
 - (iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (I) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by SBA as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;
 - (v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;
 - (vi) Provide its prime contract number, its , and the e-mail address of the Contractor's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and
 - (vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own , and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.
- (11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the Contractor's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):
- (i) Source lists (e.g., SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

- (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
- (iii) Records on each subcontract solicitation resulting in an award of more than the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, indicating—
 - (A) Whether small business concerns were solicited and, if not, why not;
 - (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
 - (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
 - (D) Whether HUBZone small business concerns were solicited and, if not, why not;
 - (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
 - (F) Whether women-owned small business concerns were solicited and, if not, why not; and
 - (G) If applicable, the reason award was not made to a small business concern.
- (iv) Records of any outreach efforts to contact—
 - (A) Trade associations;
 - (B) Business development organizations;
 - (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, service-disabled veteran-owned, and women-owned small business sources; and
 - (D) Veterans service organizations.
- (v) Records of internal guidance and encouragement provided to buyers through—
 - (A) Workshops, seminars, training, etc.; and
 - (B) Monitoring performance to evaluate compliance with the program's requirements.

- (vi) On a contract-by-contract basis, records to support award data submitted by the Contractor to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.
- (12) Assurances that the Contractor will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the proposal for the modification, in the same or greater scope, amount, and quality used in preparing and submitting the modification proposal. Responding to a request for a quote does not constitute use in preparing a proposal. The Contractor used a small business concern in preparing the proposal for a modification if–
- (i) The Contractor identifies the small business concern as a subcontractor in the proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or(ii) The Contractor used the small business concern's pricing or cost information or technical expertise in preparing the proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work when the modification is executed.
- (13) Assurances that the Contractor will provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.
- (14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the contracting officer any material matter pertaining to the payment to or utilization of a subcontractor.
- (15) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see 52.242-5).
- (e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:
- (1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged

business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

- (2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.
 - (3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.
 - (4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern in accordance with 52.219-8(d)(2).
 - (5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor's subcontracting plan.
 - (6) For all competitive subcontracts over the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, prior to award of the subcontract the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror and if the successful subcontract offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern.
 - (7) Assign each subcontract the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract.
- (f) A master subcontracting plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the Offeror by this clause; provided-
- (1) The master subcontracting plan has been approved;

- (2) The Offeror ensures that the master subcontracting plan is updated as necessary and provides copies of the approved master subcontracting plan, including evidence of its approval, to the Contracting Officer; and
 - (3) Goals and any deviations from the master subcontracting plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.
- (g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial products and commercial services. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial product or commercial service. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. A Contractor authorized to use a commercial subcontracting plan shall include in its subcontracting goals and in its SSR all indirect costs, with the exception of those such as the following: Employee salaries and benefits; payments for petty cash; depreciation; interest; income taxes; property taxes; lease payments; bank fees; fines, claims, and dues; original equipment manufacturer relationships during warranty periods (negotiated up front with the product); utilities and other services purchased from a municipality or an entity solely authorized by the municipality to provide those services in a particular geographical region; and philanthropic contributions. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.
- (h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.
- (i) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold in FAR 19.702(a), or an option is exercised, the goals of the existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. When the goals in a subcontracting plan are amended, these goal changes do not apply retroactively.
- (j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Products and Commercial Services, or when the subcontractor provides a commercial product or commercial service subject to the clause at FAR 52.244-6, Subcontracts for Commercial Products and Commercial Services, under a prime contract.
- (k) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Small Business Concerns;" or (2) an approved

plan required by this clause, shall be a material breach of the contract and may be considered in any past performance evaluation of the Contractor.

- (l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as subcontract awards by the Contractor. Subcontract award data reported by the Contractor and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.
- (1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontracting plan.
- (i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an ISR, the Contractor shall submit a corrected report within 30 days of receiving the notice of ISR rejection.
- (ii)
- (A) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.
- (B) If a subcontracting plan has been added to the contract pursuant to 19.702 a)(1)(iii) or 19.301-2(e), the Contractor's achievements must be reported in the ISR on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.
- (iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

- (iv) The authority to acknowledge receipt or reject the ISR resides—
 - (A) In the case of the prime Contractor, with the Contracting Officer;
and
 - (B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.
- (2) *SSR.*
 - (i) Reports submitted under individual contract plans—
 - (A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals.
 - (B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.
 - (C) If the Contractor or a subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over the applicable threshold specified in FAR 19.702(a), and the contractand contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime contractors.
 - (D) The report shall be submitted annually by October 30 for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor shall submit a revised report within 30 days of receiving the notice of SSR rejection.
 - (E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.
 - (F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.
 - (ii) *Reports submitted under a commercial plan-*

- (A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.
- (B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.
- (C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.
- (D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(End of Clause)

**CLAUSE I.40A - FAR 52.222-19 - CHILD LABOR – COOPERATION WITH
AUTHORITIES AND REMEDIES (JAN 2022)**

- (a) *Applicability.* This clause does not apply to the extent that the Contractor is supplying end products mined, produced, or manufactured in-
- (1) Canada, and the anticipated value of the acquisition is \$25,000 or more;
 - (2) Israel, and the anticipated value of the acquisition is \$50,000 or more;
 - (3) Mexico, and the anticipated value of the acquisition is \$92,319 or more; or
 - (4) Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or the United Kingdom and the anticipated value of the acquisition is \$183,000 or more.
- (b) *Cooperation with Authorities.* To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this contract. If the solicitation includes the provision [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at [52.212-3\(i\)](#), the Contractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.
- (c) *Violations.* The Government may impose remedies set forth in paragraph (d) for the following violations:
- (1) The Contractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.
 - (2) The Contractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.
 - (3) The Contractor uses forced or indentured child labor in its mining, production, or manufacturing processes.
 - (4) The Contractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph

(d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Contractor knew of the violation.)

(d) Remedies.

- (1) The Contracting Officer may terminate the contract.
- (2) The suspending official may suspend the Contractor in accordance with procedures in FAR [subpart 9.4](#).
- (3) The debarring official may debar the Contractor for a period not to exceed 3 years in accordance with the procedures in FAR [subpart 9.4](#).

(End of Clause)

**CLAUSE I.48 – FAR 52.222-50 – COMBATING TRAFFICKING IN PERSONS
(NOV 2021)**

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

Agent means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

Coercion means-

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

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

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) 2.101;
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Forced Labor means knowingly providing or obtaining the labor or services of a person-

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

Involuntary servitude includes a condition of servitude induced by means of-

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

Recruitment fees means fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee.

- (1) Recruitment fees include, but are not limited to, the following fees (when they are associated with the recruiting process) for-
 - (i) Soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, training, providing orientation to, skills testing, recommending, or placing employees or potential employees;
 - (ii) Advertising
 - (iii) Obtaining permanent or temporary labor certification, including any associated fees;
 - (iv) Processing applications and petitions;
 - (v) Acquiring visas, including any associated fees;
 - (vi) Acquiring photographs and identity or immigration documents, such as passports, including any associated fees;
 - (vii) Accessing the job opportunity, including required medical examinations and immunizations; background, reference, and security clearance checks and examinations; and additional certifications;
 - (viii) An employer's recruiters, agents or attorneys, or other notary or legal fees;
 - (ix) Language interpretation or translation, arranging for or accompanying on travel, or providing other advice to employees or potential employees;

- (x) Government-mandated fees, such as border crossing fees, levies, or worker welfare funds;
 - (xi) Transportation and subsistence costs-
 - (A) While in transit, including, but not limited to, airfare or costs of other modes of transportation, terminal fees, and travel taxes associated with travel from the country of origin to the country of performance and the return journey upon the end of employment; and
 - (B) From the airport or disembarkation point to the worksite;
 - (xii) Security deposits, bonds, and insurance; and
 - (xiii) Equipment charges.
- (2) A recruitment fee, as described in the introductory text of this definition, is a recruitment fee, regardless of whether the payment is-
- (i) Paid in property or money;
 - (ii) Deducted from wages;
 - (iii) Paid back in wage or benefit concessions;
 - (iv) Paid back as a kickback, bribe, in-kind payment, free labor, tip, or tribute; or
 - (v) Collected by an employer or a third party, whether licensed or unlicensed, including, but not limited to-
 - (A) Agents;
 - (B) Labor brokers;
 - (C) Recruiters;
 - (D) Staffing firms (including private employment and placement firms);
 - (E) Subsidiaries/affiliates of the employer;
 - (F) Any agent or employee of such entities; and
 - (G) Subcontractors at all tiers.

Severe forms of trafficking in persons means-

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

"Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

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

- (b) *Policy.* The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not-
 - (1) Engage in severe forms of trafficking in persons during the period of performance of the contract;
 - (2) Procure commercial sex acts during the period of performance of the contract;
 - (3) Use forced labor in the performance of the contract;
 - (4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;
 - (5)
 - (i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language understood by the employee or potential employee, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant costs to be charged to the employee or potential employee, and, if applicable, the hazardous nature of the work;
 - (ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;
 - (6) Charge employees or potential employees recruitment fees;

- (7)
- (i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment-
 - (A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or
 - (B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that-
 - (ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is-
 - (A) Legally permitted to remain in the country of employment and who chooses to do so; or
 - (B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation;
 - (iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.
- (8) Provide or arrange housing that fails to meet the host country housing and safety standards; or
- (9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation

arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

- (c) *Contractor requirements.* The Contractor shall-
- (1) Notify its employees and agents of-
 - (i) The United States Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and
 - (ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and
 - (2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause.
- (d) *Notification.*
- (1) The Contractor shall inform the Contracting Officer and the agency Inspector General immediately of-
 - (i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203-13(b)(3)(i)(A), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and
 - (ii) Any actions taken against a Contractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.
 - (2) If the allegation may be associated with more than one contract, the Contractor shall inform the contracting officer for the contract with the highest dollar value.
- (e) *Remedies.* In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in-
- (1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;
 - (2) Requiring the Contractor to terminate a subcontract;
 - (3) Suspension of contract payments until the Contractor has taken appropriate remedial action;

- (4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;
 - (5) Declining to exercise available options under the contract;
 - (6) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or
 - (7) Suspension or debarment.
- (f) *Mitigating and aggravating factors.* When determining remedies, the Contracting Officer may consider the following:
- (1) *Mitigating factors.* The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.
 - (2) *Aggravating factors.* The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.
- (g) *Full cooperation.*
- (1) The Contractor shall, at a minimum-
 - (i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;
 - (ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;
 - (iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and
 - (iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.
 - (2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not-

- (i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;
 - (ii) Require any officer, director, owner, employee, or agent of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or
 - (iii) Restrict the Contractor from-
 - (A) Conducting an internal investigation; or
 - (B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.
- (h) *Compliance plan.*
- (1) This paragraph (h) applies to any portion of the contract that-
 - (i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and
 - (ii) Has an estimated value that exceeds \$550,000.
 - (2) The Contractor shall maintain a compliance plan during the performance of the contract that is appropriate-
 - (i) To the size and complexity of the contract; and
 - (ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.
 - (3) *Minimum requirements.* The compliance plan must include, at a minimum, the following:
 - (i) An awareness program to inform contractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.
 - (ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at help@befree.org.

- (iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employees or potential employees and ensures that wages meet applicable host-country legal requirements or explains any variance.
 - (iv) A housing plan, if the Contractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.
 - (v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.
- (4) *Posting.*
- (i) The Contractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor shall provide the relevant contents of the compliance plan to each worker in writing.
 - (ii) The Contractor shall provide the compliance plan to the Contracting Officer upon request.
- (5) *Certification.* Annually after receiving an award, the Contractor shall submit a certification to the Contracting Officer that-
- (i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and
 - (ii) After having conducted due diligence, either-
 - (A) To the best of the Contractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or
 - (B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or subcontractor has taken the appropriate remedial and referral actions.
- (i) *Subcontracts.*

- (1) The Contractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the subcontract that-
 - (i) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and
 - (ii) Has an estimated value that exceeds \$550,000.
- (2) If any subcontractor is required by this clause to submit a certification, the Contractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

(End of Clause)

**CLAUSE I.49 – FAR 52.222-54 – EMPLOYMENT ELIGIBILITY VERIFICATION
(NOV 2021)**

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

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

- (1) Means any item of supply that is—
 - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c)(2), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

Employee assigned to the contract means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a contract if the employee-

- (1) Normally performs support work, such as indirect or overhead functions; and
- (2) Does not perform any substantial duties applicable to the contract.

Subcontract means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

- (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall-
 - (i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;
 - (ii) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and
 - (iii) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

- (2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of-
 - (i) *All new employees.*
 - (A) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (B) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

- (3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that

any requirement for verification of new employees applies only to new employees assigned to the contract.

- (4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of-
- (i) Enrollment in the E-Verify program; or
 - (ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).
- (5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.
- (i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.
 - (ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.
- (c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify> gov/E-Verify.
- (d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee-
- (1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
 - (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
 - (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12,

Policy for a Common Identification Standard for Federal Employees and Contractors.

- (e) *Subcontracts*. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that-
- (1) Is for—
 - (i) Services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
 - (ii) Construction;
 - (2) Has a value of more than \$3,500; and
 - (3) Includes work performed in the United States.

(End of Clause)

CLAUSE I.65 – FAR 52.225-1 – BUY AMERICAN – SUPPLIES (NOV 2021)

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

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

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C.40102(4), such as agricultural products and petroleum products.

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

Cost of components means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

Domestic end product means—

- (1) For an end product that does not consist wholly or predominantly of iron or steel or a combination of both—
 - (i) An unmanufactured end product mined or produced in the United States;
 - (ii) An end product manufactured in the United States, if—
 - (A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined,

produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Components of unknown origin are treated as foreign. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

- (B) The end product is a COTS item; or
- (2) For an end product that consists wholly or predominantly of iron or steel or a combination of both, an end product manufactured in the United States, if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all the components used in the end product. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the end product and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the end product contains multiple components, the cost of all the materials used in such end product is calculated in accordance with the definition of "cost of components".

End product means those articles, materials, and supplies to be acquired under the contract for public use.

Fastener means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

Foreign end product means an end product other than a domestic end product.

Foreign iron and steel means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

Steel means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

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

- (b) [41 U.S.C. chapter 83](#), Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with [41 U.S.C. 1907](#),

the domestic content test of the Buy American statute is waived for an end product that is a COTS item (see [12.505\(a\)\(1\)](#)), except that for an end product that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the end product, excluding COTS fasteners.

- (c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.
- (d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled "Buy American Certificate."

(End of Clause)

**CLAUSE I.67 – FAR 52.225-9 - BUY AMERICAN–CONSTRUCTION MATERIALS
(NOV 2021)**

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

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

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) 2.101);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Domestic construction material means—

- (1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-

- (i) An unmanufactured construction material mined or produced in the United States; or
- (ii) A construction material manufactured in the United States, if—
 - (A) The cost of its components mined, produced, or manufactured in the United States exceeds 55 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or
 - (B) The construction material is a COTS item; or
- (2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

Fastener means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

Foreign construction material means a construction material other than a domestic construction material.

Foreign iron and steel means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

Predominantly of iron or steel or a combination of both means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners. *Steel* means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

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

(b) Domestic preference.

- (1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction materials, excluding COTS fasteners. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.
- (2) This requirement does not apply to information technology that is a commercial product or to the construction materials or components listed by the Government as follows:

“none”
- (3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that-
 - (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;
 - (ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
 - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American statute.

- (1)
 - (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including-
 - (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;

- (D) Price;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
 - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
 - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.
- (d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison				
Construction Material Description	Unit of Measure	Quantity	Price (dollars)*	
Item1:				
Foreign construction material	_____	_____	_____	
Domestic construction material	_____	_____	_____	

Item2:	_____	_____	_____	
Foreign construction material	_____	_____	_____	
Domestic construction material				
<p><i>[* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued)].</i></p> <p><i>[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]</i></p> <p><i>[Include other applicable supporting information.]</i></p>				

(End of Clause)

**CLAUSE I.78 – FAR 52.232-40 – PROVIDING ACCELERATED PAYMENT TO
SMALL BUSINESS SUBCONTRACTORS (NOV 2021)**

- (a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.
- (b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.
- (c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial products or commercial services.

(End of Clause)

CLAUSE I.88 – FAR 52.244-6 – SUBCONTRACTS FOR COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (JAN 2022)

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

Commercial product, commercial service and commercially available off-the-shelf item have the meanings contained in Federal Acquisition Regulation (FAR) [2.101](#).

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

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial products, commercial services, or non-developmental items as components of items to be supplied under this contract.

(c)

(1) The Contractor shall insert the following clauses in subcontracts for commercial products or commercial services:

- (i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (NOV 2021) ([41 U.S.C. 3509](#)), if the subcontract exceeds the threshold specified in FAR [3.1004\(a\)](#) on the date of subcontract award, and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.
- (ii) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.
- (iii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017).
- (iv) [52.204-21](#), Basic Safeguarding of Covered Contractor Information Systems (NOV 2021), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause [52.204-21](#).
- (v) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).
- (vi) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

- (vii) [52.219-8](#), Utilization of Small Business Concerns (OCT 2018) ([15 U.S.C.637\(d\)\(2\)](#) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702\(a\)](#) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.
- (viii) [52.222-21](#), *Prohibition of Segregated Facilities* (APR 2015).
- (ix) [52.222-26](#), Equal Opportunity (Sept 2016) (E.O.11246).
- (x) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ([38 U.S.C.4212\(a\)](#));
- (xi) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ([29 U.S.C.793](#)).
- (xii) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ([38 U.S.C.4212](#)).
- (xiii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.
- (xiv)
 - (A) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ([22 U.S.C. chapter 78](#) and E.O. 13627).
 - (B) Alternate I (MAR 2015) of [52.222-50](#)([22 U.S.C. chapter 78](#) and E.O. 13627).
- (xv) [52.222-55](#), Minimum Wages under Executive Order 13658 (JAN 2022), if flow down is required in accordance with paragraph (k) of FAR clause [52.222-55](#).
- (xvi) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2017) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause [52.222-62](#).
- (xvii)
 - (A) [52.224-3](#), Privacy Training (JAN 2017) ([5 U.S.C. 552a](#)) if flow down is required in accordance with [52.224-3\(f\)](#).
 - (B) Alternate I (JAN 2017) of [52.224-3](#), if flow down is required in accordance with [52.224-3\(f\)](#) and the agency specifies that only its agency-provided training is acceptable).

- (xviii) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).
 - (xix) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (NOV 2021), if flow down is required in accordance with paragraph (c) of FAR clause [52.232-40](#).
 - (xx) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) ([46 U.S.C. 55305](#) and [10 U.S.C.2631](#)), if flow down is required in accordance with paragraph (d) of FAR clause [52.247-64](#).
- (2) While not required, the Contractor may flow down to subcontracts for commercial products or commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.
- (d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of Clause)

**CLAUSE I.88A – FAR 52.246-26 – REPORTING NONCONFORMING ITEMS
(NOV 2021)**

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

Common item means an item that has multiple applications versus a single or peculiar application.

Counterfeit item means an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified item from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used items represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

Critical item means an item, the failure of which is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the item; or is likely to prevent performance of a vital agency mission.

Critical nonconformance means a nonconformance that is likely to result in hazardous or unsafe conditions for individuals using, maintaining, or depending upon the supplies or services; or is likely to prevent performance of a vital agency mission.

Design activity means an organization, Government or contractor, that has responsibility for the design and configuration of an item, including the preparation or maintenance of design documents. Design activity could be the original organization, or an organization to which design responsibility has been transferred.

Major nonconformance means a nonconformance, other than critical, that is likely to result in failure of the supplies or services, or to materially reduce the usability of the supplies or services for their intended purpose.

Suspect counterfeit item means an item for which credible evidence (including but not limited to, visual inspection or testing) provides reasonable doubt that the item is authentic.

(b) The Contractor shall—

- (1) Screen Government-Industry Data Exchange Program (GIDEP) reports, available at www.gidep.org, as a part of the Contractor's inspection system or program for the control of quality, to avoid the use and delivery of counterfeit or suspect counterfeit items or delivery of items that contain a major or critical nonconformance. This requirement does not apply if the Contractor is a foreign corporation or partnership that does not have an office, place of business, or fiscal paying agent in the United States;

- (2) Provide written notification to the Contracting Officer within 60 days of becoming aware or having reason to suspect, such as through inspection, testing, record review, or notification from another source (*e.g.*, seller, customer, third party) that any end item, component, subassembly, part, or material contained in supplies purchased by the Contractor for delivery to, or for, the Government is counterfeit or suspect counterfeit;
 - (3) Retain counterfeit or suspect counterfeit items in its possession at the time of discovery until disposition instructions have been provided by the Contracting Officer; and
 - (4) Except as provided in paragraph (c) of this clause, submit a report to GIDEP at www.gidep.org within 60 days of becoming aware or having reason to suspect, such as through inspection, testing, record review, or notification from another source (*e.g.*, seller, customer, third party) that an item purchased by the Contractor for delivery to, or for, the Government is—
 - (i) A counterfeit or suspect counterfeit item; or
 - (ii) A common item that has a major or critical nonconformance.
- (c) The Contractor shall not submit a report as required by paragraph (b)(4) of this clause, if—
- (1) The Contractor is a foreign corporation or partnership that does not have an office, place of business, or fiscal paying agent in the United States;
 - (2) The Contractor is aware that the counterfeit, suspect counterfeit, or nonconforming item is the subject of an on-going criminal investigation, unless the report is approved by the cognizant law-enforcement agency; or
 - (3) For nonconforming items other than counterfeit or suspect counterfeit items, it can be confirmed that the organization where the defect was generated (*e.g.*, original component manufacturer, original equipment manufacturer, aftermarket manufacturer, or distributor that alters item properties or configuration) has not released the item to more than one customer.
- (d) Reports submitted in accordance with paragraph (b)(4) of this clause shall not include—
- (1) Trade secrets or confidential commercial or financial information protected under the Trade Secrets Act (18 U.S.C. 1905); or
 - (2) Any other information prohibited from disclosure by statute or regulation.
- (e) Additional guidance on the use of GIDEP is provided at <http://www.gidep.org/about/opmanual/opmanual.htm>.
- (f) If this is a contract with the Department of Defense, as provided in paragraph (c)(5) of section 818 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81), the Contractor or subcontractor that provides a written report or notification under

this clause that the end item, component, part, or material contained electronic parts (*i.e.*, an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly)) that are counterfeit electronic parts or suspect counterfeit electronic parts shall not be subject to civil liability on the basis of such reporting, provided that the Contractor or any subcontractor made a reasonable effort to determine that the report was factual.

(g) Subcontracts.

- (1) Except as provided in paragraph (g)(2) of this clause, the Contractor shall insert this clause, including this paragraph (g), in subcontracts that are for—
 - (i) Items subject to higher-level quality standards in accordance with the clause at Federal Acquisition Regulation (FAR) 52.246-11, Higher-Level Contract Quality Requirement;
 - (ii) Items that the Contractor determines to be critical items for which use of the clause is appropriate;
 - (iii) Electronic parts or end items, components, parts, or materials containing electronic parts, whether or not covered in paragraph (g)(1)(i) or (ii) of this clause, if the subcontract exceeds the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, and this contract is by, or for, the Department of Defense (as required by paragraph (c)(4) of section 818 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81)); or
 - (iv) For the acquisition of services, if the subcontractor will furnish, as part of the service, any items that meet the criteria specified in paragraphs (g)(1)(i) through (g)(1)(iii) of this clause.
- (2) The Contractor shall not insert the clause in subcontracts for—
 - (i) Commercial products and commercial services; or
 - (ii) Medical devices that are subject to the Food and Drug Administration reporting requirements at 21 CFR 803.
- (3) The Contractor shall not alter the clause other than to identify the appropriate parties.

(End of Clause)

**CLAUSE I.91 – FAR 52.247-64 – PREFERENCE FOR PRIVATELY OWNED U.S.-
FLAG COMMERCIAL VESSELS (NOV 2021)**

- (a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C.App.1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are-
- (1) Acquired for a U.S. Government agency account;
 - (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
 - (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
 - (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.
- (b) The Contractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this contract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) of this clause, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.
- (c)
- (1) The Contractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both-
 - (i) The Contracting Officer, and
 - (ii) The:
Office of Cargo Preference Maritime Administration (MAR-590)
400 Seventh Street, SW Washington DC 20590.
Subcontractor bills of lading shall be submitted through the Prime Contractor.
 - (2) The Contractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States, or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

- (A) Sponsoring U.S. Government agency.
 - (B) Name of vessel.
 - (C) Vessel flag of registry.
 - (D) Date of loading.
 - (E) Port of loading.
 - (F) Port of final discharge.
 - (G) Description of commodity.
 - (H) Gross weight in pounds and cubic feet if available.
 - (I) Total ocean freight revenue in U.S. dollars.
- (d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this contract, except those described in paragraph (e)(4).
- (e) The requirement in paragraph (a) does not apply to-
- (1) Cargoes carried in vessels as required or authorized by law or treaty;
 - (2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C.2353);
 - (3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels; and
 - (4) Subcontracts or purchase orders for the acquisition of commercial products or commercial services unless-
 - (i) This contract is-
 - (A) A contract or agreement for ocean transportation services; or
 - (B) A construction contract; or
 - (ii) The supplies being transported are-
 - (A) Items the Contractor is reselling or distributing to the Government without adding value. (Generally, the Contractor does not add value to the items when it subcontracts items for f.o.b. destination shipment); or
 - (B) Shipped in direct support of U.S. military-

- (1) Contingency operations;
 - (2) Exercises; or
 - (3) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.
- (f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates Maritime Administration 400 Seventh Street, SW
Washington DC 20590 Phone: (202) 366-4610.

(End of Clause)

APPENDIX I

DOE Directives/List B

**Applicable to the Operations of
Brookhaven National Laboratory**

There is no List A to this Appendix.

List B to this Appendix contains the following:

Part I: "Directives List"

This section contains a list of Directives that are considered by DOE as applicable to the BNL contract.

**Appendix I - Part I
DOE DIRECTIVES LIST**

DOE Directives may be found at the following address: <http://www.directives.doe.gov>

ISSUED	TYPE	NUMBER	THROUGH CHANGE	TITLE Includes Compliance Notes as Necessary
9/29/1995	Order	130.1		Budget Formulation
9/4/2008	Manual	142.2-1	Chg. 1 (Admin Chg.) 6/27/2013	Manual for Implementation of the Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency
12/15/2006	Order	142.2A	Chg. 1 (Admin Chg.) 6/27/2013	Voluntary Offer Safeguards Agreement and Additional Protocol with the International Atomic Energy Agency
1/15/2021	Order	142.3B		Unclassified Foreign National Access Program
3/31/2014	Order	150.1A		Continuity Programs
8/11/2016	Order	151.1D	Chg.1 (Minor Chg.) 10/4/2019	Comprehensive Emergency Management System
6/27/2007	Order	153.1		Departmental Radiological Emergency Response Assets
12/23/2008	Order	200.1A	Chg.1 (Minor Chg.) 01/13/2017	Information Technology Management
1/7/2005	Order	203.1		Limited Personal Use of Government Office Equipment Including Information Technology
5/15/2019	Order	205.1C		Department of Energy Cyber Security Program
1/16/2009	Order	206.1	Chg.1 (Minor Chg.) 11/1/2018	Department of Energy Privacy Program
2/19/2013	Order	206.2		Identity, Credential and Access Management (ICAM)
4/8/2011	Order	210.2A		DOE Corporate Operating Experience Program
9/27/2016	Order	221.1B		Reporting Fraud, Waste, and Abuse to the Office of Inspector General
2/25/2008	Order	221.2A		Cooperation with the Office of Inspector General
3/4/2011	Order	225.1B		Accident Investigations
12/21/2015	Order	227.1A	Chg. 1 (Admin Chg.) 1/21/2020	Independent Oversight Program
6/27/2011	Order	231.1B	Chg. 1 (Admin Chg.) 11/28/2012	Environment, Safety and Health Reporting
1/17/2017	Order	232.2A	Chg.1 (Minor Chg.) 10/04/2019	Occurrence Reporting and Processing of Operations Information

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ISSUED	TYPE	NUMBER	THROUGH CHANGE	TITLE Includes Compliance Notes as Necessary
12/13/2010	Order	241.1B	Chg. 1 (Admin Chg) 4/26/2016	Scientific and Technical Information Management
3/11/2013	Order	243.1B	Chg. 1 (Admin Chg.) 7/8/2013	Records Management Program
2/23/2011	Order	252.1A	Chg. 1 (Admin Chg.) 3/12/2013	Technical Standards Program
11/19/2009	Order	313.1		Management and Funding of the Department's Overseas Presence
10/18/2007	Order	341.1A Parts: 1.(a-b) 2.a(1-3) 2.a(4)(a-h)		Federal Employee Health Services
9/30/1996	Order	350.1	Chg. 7 (LtdChg.) 2/19/2020	Contractor Human Resource Management Programs
8/17/2009	Order	410.2	Chg. 1 (Admin Chg.) 4/10/2014	Management of Nuclear Materials
1/4/2017	Order	411.2		Scientific Integrity
1/4/2017	Policy	411.2A		Scientific Integrity Policy
10/22/2015	Order	413.2C	Chg.1 (Minor Chg.) 8/2/2018	Laboratory Directed Research and Development
11/29/2010	Order	413.3B	Chg. 6 (Minor Chg.) 1/12/2021	Program and Project Management for the Acquisition of Capital Assets
4/25/2011	Order	414.1D	Chg. 2 (LtdChg.) 9/15/2020	Quality Assurance
12/3/2012	Order	415.1	Chg. 2 (Minor Chg.) 1/17/2017	Information Technology Project Management

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ISSUED	TYPE	NUMBER	THROUGH CHANGE	TITLE Includes Compliance Notes as Necessary
12/4/2012	Order	420.1C	Chg.3 (Ltd Chg.) 11/14/2019	Facility Safety Compliance Note: CRD Chapters 1, 3, and 5 only are applicable to BNL Hazardous Category 1, 2, or 3 nuclear facilities. Currently these type of nuclear facilities do not exist at BNL. The requirements of DOE O 420.1C Chg. 2 CRD Chapters 2 (Fire Protection) and 5 (Natural Phenomena Hazards Mitigation) apply to BNL
7/21/2011	Order	420.2C		Safety of Accelerator Facilities
6/29/2010	Order	422.1	Chg. 3 (Minor Chg.) 10/4/2019	Conduct of Operations Compliance Note: Applicable to Hazardous Category 1, 2, or 3 nuclear facilities and other facilities as defined by BSA in a Program Plan approved by BHSO
11/25/2016	Policy	434.1B		Conduct and Approval of Select Agent and Toxin Work at Department of Energy Sites
7/9/1999	Order	435.1	Chg. 2 (Admin Chg.) 1/11/2021	Radioactive Waste Management
7/9/1999	Manual	435.1-1	Chg. 3 (LtdChg.) 1/11/2021	Radioactive Waste Management Manual
5/2/2011	Order	436.1		Departmental Sustainability
12/11/2020	Order	437.1		Bridge and Tunnel Management
6/15/2011	Order	440.2C	Chg. 2 (LtdChg.) 9/15/2020	Aviation Management and Safety
3/7/2008	Manual	441.1-1	Chg. 1 (Admin Chg.) 02/24/2016	Nuclear Material Packaging Manual
1/31/2019	Order	442.1B		Department of Energy Employee Concerns Program
7/29/2011	Order	442.2	Chg.1 (Pg.Chg.) 10/5/2016	Differing Professional Opinions for Technical Issues Involving Environment, Safety and Health
11/26/2019	Order	443.1C		Protection of Human Research Subjects
7/21/2011	Order	452.8		Control of Nuclear Weapon Data
7/15/2016	Order	456.1A		The Safe Handling of Unbound Engineered Nanoparticles

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ISSUED	TYPE	NUMBER	THROUGH CHANGE	TITLE Includes Compliance Notes as Necessary
2/11/2011	Order	458.1	Chg. 4 (LtdChg.) 9/15/2020	Radiation Protection of the Public and the Environment
12/20/2016	Order	460.1D		Hazardous Materials Packaging and Transportation Safety
12/22/2004	Order	460.2A		Departmental Material Transportation and Packaging Management
6/4/2008	Manual	460.2-1A		Radioactive Material Transportation Practices Manual
11/23/2016	Order	470.3C	Chg. 1 (LtdChg.) 9/9/2020	Design Basis Threat (DBT) Order
7/21/2011	Order	470.4B	Chg. 3 (LtdChg.) 9/23/2021	Safeguards and Security Program
6/2/2014	Order	470.5		Insider Threat Program
9/2/2015	Order	470.6	Chg.1 (Minor Chg.) 1/11/2017	Technical Security Program
3/1/2010	Order	471.1B		Identification and Protection of Unclassified Controlled Nuclear Information
4/9/2003	Order	471.3	Chg. 1 (Admin Chg.) 1/13/2011	Identifying and Protecting Official Use Only Information
4/9/2003	Manual	471.3-1	Chg. 1 (Admin Chg.) 1/13/2011	Manual for Identifying and Protecting Official Use Only Information
6/20/2011	Order	471.6	Chg. 3 (Admin Chg.) 9/12/2019	Information Security
7/21/2011	Order	472.2	Chg. 1 (Pg Chg.) 7/9/2014	Personnel Security
8/30/2021	Order	473.1A		Physical Protection Program

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ISSUED	TYPE	NUMBER	THROUGH CHANGE	TITLE Includes Compliance Notes as Necessary
8/30/2021	Order	473.2A		Protection Force Operations
6/27/2011	Order	474.2	Chg. 4 (Pg.Chg.) 9/13/2016	Nuclear Material Control and Accountability
12/10/2004	Order	475.1		Counterintelligence Program
10/3/2014	Order	475.2B		Identifying Classified Information
12/20/2018	Order	481.1E	Chg. 1 (LtdChg.) 12/13/2019	Strategic Partnership Projects [Formerly Known as Work for Others (Non-Department of Energy Funded Work)]
12/20/2016	Order	483.1B	Chg. 2 (LtdChg.) 12/13/2019	DOE Cooperative Research and Development Agreements
8/17/2006	Order	484.1	Chg. 2 (Admin Chg.) 6/30/2014	Reimbursable Work for the Department of Homeland Security
12/13/2019	Policy	485.1A		Foreign Engagements with DOE National Laboratories
9/4/2020	Order	486.1A		Foreign Government Sponsored or Affiliated Activities
1/7/2021	Order	520.1B		Financial Management and Chief Financial Officer Responsibilities
8/2/2018	Order	522.1A		Pricing of Departmental Materials and Services
5/2/2019	Order	550.1	Chg. 1 (LtdChg.) 12/13/2019	Official Travel
3/30/2012	Order	580.1A	Chg. 1 (Admin Chg.) 10/22/2012	Department of Energy Personal Property Management Program