

PART II –CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

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I.17	<p>52.209-9 UPDATES OF INFORMATION REGARDING RESPONSIBILITY MATTERS (FEB 2012)</p> <p>(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database via https://www.acquisition.gov.</p> <p>(b) As required by section 3010 of the Supplemental Appropriations Act, 2010 (Pub. L. 111-212), all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available. FAPIS consists of two segments--</p> <ul style="list-style-type: none">(1) The non-public segment, into which Government officials and the Contractor post information, which can only be viewed by--<ul style="list-style-type: none">(i) Government personnel and authorized users performing business on behalf of the Government; or(ii) The Contractor, when viewing data on itself; and(2) The publicly-available segment, to which all data in the non-public segment of FAPIS is automatically transferred after a waiting period of 14 calendar days, except for--<ul style="list-style-type: none">(i) Past performance reviews required by subpart 42.15;(ii) Information that was entered prior to April 15, 2011; or(iii) Information that is withdrawn during the 14-calendar-day waiting period by the Government official who posted it in accordance with paragraph (c)(1) of this clause. <p>(c) The Contractor will receive notification when the Government posts new information to the Contractor's record.</p> <ul style="list-style-type: none">(1) If the Contractor asserts in writing within 7 calendar days, to the Government official who posted the information, that some of the information posted to the non-public segment of FAPIS is covered by a disclosure exemption under the Freedom of Information Act, the Government official who posted the information must within 7 calendar days remove the posting from FAPIS and resolve the issue in accordance with agency Freedom of Information procedures, prior to reposting the releasable information. The contractor must cite 52.209-9 and request removal within 7 calendar days of the posting to FAPIS.(2) The Contractor will also have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.(3) As required by section 3010 of Pub. L. 111-212, all information posted in FAPIS on or after April 15, 2011, except past performance reviews, will be publicly available. <p>(d) Public requests for system information posted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated</p>
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		under E.O. 12600.
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I.19	52.215-2	AUDIT AND RECORDS—NEGOTIATION (OCT 2010)
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I.24	52.215-17	WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)
I.25	52.215-21	REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA – MODIFICATIONS – ALTERNATE IV (OCT 2010)
I.26	52.216-18	<p>ORDERING (OCT 1995)</p> <p>(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the date of contract award through February 15, 2019.</p> <p>(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.</p> <p>(c) If mailed, a delivery order or task order is considered “issued” when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.</p>
I.27	52.216-19	<p>ORDERING LIMITATIONS (OCT 1995)</p> <p>(a) <i>Minimum order.</i> When the Government requires supplies or services covered by this contract in an amount of less than Exemption 4, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.</p> <p>(b) <i>Maximum order.</i> The Contractor is not obligated to honor— (1) Any order for a single item in excess of Exemption 4 (2) Any order for a combination of items in excess of Exemption 4; or (3) A series of orders from the same ordering office within 365 days that together call for quantities exceeding the limitation in paragraph (b)(1) or (2) of this section.</p>

		<p>(c) If this is a requirements contract (<i>i.e.</i>, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement the maximum-order limitations in paragraph (b) of this section.</p> <p>(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 365 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.</p>
I.28	52.216-21	REQUIREMENTS (OCT 1995)
I.29	52.217-8	<p>OPTION TO EXTEND SERVICES (NOV 1999)</p> <p>The Government may require continued performance of any services within the limits and at the rates specified in the contract. These rates may be adjusted only as a result of revisions to prevailing labor rates provided by the Secretary of Labor. The option provision may be exercised more than once, but the total extension of performance hereunder shall not exceed 6 months. The Contracting Officer may exercise the option by written notice to the Contractor within 30 days of the end of the contract period.</p>
I.30	52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)	
	<p>(a) The Government may extend the term of this Contract by written notice to the Contractor within 30 days; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 60 days before the Contract expires. The preliminary notice does not commit the Government to an extension.</p> <p>(b) If the Government exercises this option, the extended Contract shall be considered to include this option clause. (c) The total duration of this Contract, including the exercise of any options under this clause, shall not exceed five (5) years.</p>	
I.31	52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (JUL 2013)
I.32	52.219-11	SPECIAL 8(A) CONTRACT CONDITIONS (FEB 1990)
I.33	52.219-12	<p>SPECIAL 8(A) SUBCONTRACT CONDITIONS (FEB 1990)</p> <p>(a) The Small Business Administration (SBA) has entered into Contract No. DE-EM0002903 with the Department of Energy to furnish the supplies or services as described therein. A copy of the contract is attached hereto and made a part hereof.</p> <p>(b) Ma-Chis Lower Creek Indian Tribal Enterprises Inc., hereafter referred to as the subcontractor, agrees and acknowledges as follows:</p> <p>(1) That it will, for and on behalf of the SBA, fulfill and perform all of the requirements of Contract No. DE-EM0002903 for the consideration stated therein and that it has read and is familiar with each and every part of the contract.</p>

		<p>(2) That the SBA has delegated responsibility, except for novation agreements and advance payments, for the administration of this subcontract to the Department of Energy with complete authority to take any action on behalf of the Government under the terms and conditions of this subcontract.</p> <p>(3) That it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the designated Contracting Officer of the Department of Energy.</p> <p>(4) That it will notify the Department of Energy Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.</p> <p>(c) Payments, including any progress payments under this subcontract, will be made directly to the subcontractor by the Department of Energy.</p>
I.34	52.219-14	LIMITATIONS ON SUBCONTRACTING (NOV 2011)
I.35	52.219-17	<p>SECTION 8(A) AWARD (DEC 1996)</p> <p>(a) By execution of a contract, the Small Business Administration (SBA) agrees to the following:</p> <p>(1) To furnish the supplies or services set forth in the contract according to the specifications and the terms and conditions by subcontracting with the Offeror who has been determined an eligible concern pursuant to the provisions of section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).</p> <p>(2) Except for novation agreements and advance payments, delegates to the DOE Carlsbad Field Office the responsibility for administering the contract with complete authority to take any action on behalf of the Government under the terms and conditions of the contract; provided, however that the contracting agency shall give advance notice to the SBA before it issues a final notice terminating the right of the subcontractor to proceed with further performance, either in whole or in part, under the contract.</p> <p>(3) That payments to be made under the contract will be made directly to the subcontractor by the contracting activity.</p> <p>(4) To notify the DOE Carlsbad Field Office Contracting Officer immediately upon notification by the subcontractor that the owner or owners upon whom 8(a) eligibility was based plan to relinquish ownership or control of the concern.</p> <p>(5) That the subcontractor awarded a subcontract hereunder shall have the right of appeal from decisions of the cognizant Contracting Officer under the "Disputes" clause of the subcontract.</p> <p>(b) The offeror/subcontractor agrees and acknowledges that it will, for and on</p>

		<p>behalf of the SBA, fulfill and perform all of the requirements of the contract.</p> <p>(c) The offeror/subcontractor agrees that it will not subcontract the performance of any of the requirements of this subcontract to any lower tier subcontractor without the prior written approval of the SBA and the cognizant Contracting Officer of the DOE Carlsbad Field Office.</p>
I.36	52.219-18	NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8 (a) CONCERNS (JUN 2003)
I.37	52.219-28	POST-AWARD SMALL BUSINESS PROGRAM RE-REPRESENTATION (APR 2009)
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I.80	52.243-1	CHANGES – FIXED PRICE ALTERNATE I (AUG 1987)
I.81	52.243-3	CHANGES – TIME-AND-MATERIALS OR LABOR HOURS (SEPT 2000)
I.82	52.244-2	<p>SUBCONTRACTS (OCT 2010)</p> <p>(a) <i>Definitions.</i> As used in this clause—</p> <p>“Approved purchasing system” means a Contractor’s purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).</p> <p>“Consent to subcontract” means the Contracting Officer’s written consent for the Contractor to enter into a particular subcontract.</p> <p>“Subcontract” means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.</p> <p>(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.</p> <p>(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—</p> <ol style="list-style-type: none"> (1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or (2) Is fixed-price and exceeds— <ol style="list-style-type: none"> (i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or (ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract. <p>(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer’s written consent before placing the following subcontracts:</p>

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

- (i) A description of the supplies or services to be subcontracted.
- (ii) Identification of the type of subcontract to be used.
- (iii) Identification of the proposed subcontractor.
- (iv) The proposed subcontract price.
- (v) The subcontractor's current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.
- (vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.
- (vii) A negotiation memorandum reflecting—
 - (A) The principal elements of the subcontract price negotiations;
 - (B) The most significant considerations controlling establishment of initial or revised prices;
 - (C) The reason certified cost or pricing data were or were not required;
 - (D) The extent, if any, to which the Contractor did not rely on the subcontractor's certified cost or pricing data in determining the price objective and in negotiating the final price;
 - (E) The extent to which it was recognized in the negotiation that the subcontractor's certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;
 - (F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and
 - (G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (b), (c), or (d) of this clause.

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

- (1) Of the acceptability of any subcontract terms or conditions;
- (2) Of the allowability of any cost under this contract; or
- (3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR [15.404-4\(c\)\(4\)\(i\)](#).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or

	<p>suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.</p> <p>(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.</p> <p>(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:</p> <p><u>None</u></p>	
I.83	52.244-6	SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2013)
I.84	52.245-1	GOVERNMENT PROPERTY (APR 2012)
I.85	52.245-9	USE AND CHARGES (APR 2012)
I.86	52.246-25	LIMITATION OF LIABILITY—SERVICES (FEB 1997)
I.87	52.247-21	CONTRACTOR LIABILITY FOR PERSONAL INJURY OR PROPERTY DAMAGE (APR 1984)
I.88	52.249-2	TERMINATION FOR THE CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (APR 2012)
I.89	52.249-6	TERMINATION (COST-REIMBURSEMENT) - ALTERNATE IV (MAY 2004)
I.90	<p>52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)</p> <p>This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es): https://www.acquisition.gov/far/</p>	
I.91	52.253-1	COMPUTER GENERATED FORMS (JAN 1991)
I.92	DEAR 952.202-1 DEFINITIONS (FEB 2011)	
I.93	<p>DEAR 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)</p> <p>(a) The Contractor shall comply with the requirements of "DOE Contractor Employee Protection Program" at 10 CFR Part 708 for work performed on behalf of DOE directly related to activities at DOE-owned or-leased sites.</p> <p>(b) The Contractor shall insert or have inserted the substance of this clause, including this paragraph (b), in subcontracts at all tiers, for subcontracts involving work performed on behalf of</p>	

	DOE directly related to activities at DOE-owned or leased sites.
I.94	<p>DEAR 952.204-75 PUBLIC AFFAIRS (DEC 2000)</p> <p>(a) The Contractor must cooperate with the Department in releasing unclassified information to the public and news media regarding DOE policies, programs, and activities relating to its effort under the contract. The responsibilities under this clause must be accomplished through coordination with the Contracting Officer and appropriate DOE public affairs personnel in accordance with procedures defined by the Contracting Officer.</p> <p>(b) The Contractor is responsible for the development, planning, and coordination of proactive approaches for the timely dissemination of unclassified information regarding DOE activities onsite and offsite, including, but not limited to, operations and programs. Proactive public affairs programs may utilize a variety of communication media, including public workshops, meetings or hearings, open houses, newsletters, press releases, conferences, audio/visual presentations, speeches, forums, tours, and other appropriate stakeholder interactions.</p> <p>(c) The Contractor's internal procedures must ensure that all releases of information to the public and news media are coordinated through, and approved by, a management official at an appropriate level within the Contractor's organization.</p> <p>(d) The Contractor must comply with DOE procedures for obtaining advance clearances on oral, written, and audio/visual informational material prepared for public dissemination or use.</p> <p>(e) Unless prohibited by law, and in accordance with procedures defined by the Contracting Officer, the Contractor must notify the Contracting Officer and appropriate DOE public affairs personnel of communications or contacts with Members of Congress relating to the effort performed under the contract.</p> <p>(f) In accordance with procedures defined by the Contracting Officer, the Contractor must notify the Contracting Officer and appropriate DOE public affairs personnel of activities or situations that may attract regional or national news media attention and of non-routine inquiries from national news media relating to the effort performed under the contract.</p> <p>(g) In releases of information to the public and news media, the Contractor must fully and accurately identify the Contractor's relationship to the Department and fully and accurately credit the Department for its role in funding programs and projects resulting in scientific, technical, and other achievements.</p>
I.95	<p>DEAR 952.204-77 COMPUTER SECURITY (AUG 2006)</p> <p>(a) Definitions.</p> <p>(1) Computer means desktop computers, portable computers, computer networks (including the DOE Network and local area networks at or controlled by DOE organizations), network devices, automated information systems, and or other related computer equipment owned by, leased, or operated on behalf of the DOE.</p>

	<p>(2) Individual means a DOE Contractor or subcontractor employee, or any other person who has been granted access to a DOE computer or to information on a DOE computer, and does not include a member of the public who sends an e-mail message to a DOE computer or who obtains information available to the public on DOE Web sites.</p> <p>(b) Access to DOE computers. A Contractor shall not allow an individual to have access to information on a DOE computer unless-</p> <p>(1) The individual has acknowledged in writing that the individual has no expectation of privacy in the use of a DOE computer; and</p> <p>(2) The individual has consented in writing to permit access by an authorized investigative agency to any DOE computer used during the period of that individual's access to information on a DOE computer, and for a period of three years thereafter.</p> <p>(c) No expectation of privacy. Notwithstanding any other provision of law (including any provision of law enacted by the Electronic Communications Privacy Act of 1986), no individual using a DOE computer shall have any expectation of privacy in the use of that computer.</p> <p>(d) Written records. The Contractor is responsible for maintaining written records for itself and subcontractors demonstrating compliance with the provisions of paragraph (b) of this section. The Contractor agrees to provide access to these records to the DOE, or its authorized agents, upon request.</p> <p>(e) Subcontracts. The Contractor shall insert this clause, including this paragraph (e), in subcontracts under this contract that may provide access to computers owned, leased or operated on behalf of the DOE.</p>
I.96	<p>DEAR 952.208-70 PRINTING (APR 1984)</p> <p>The Contractor shall not engage in, nor subcontract for, any printing (as that term is defined in Title I of the U.S. Government Printing and Binding Regulations in effect on the effective date of this Contract) in connection with the performance of work under this Contract. Provided, however, that performance of a requirement under this Contract involving the duplication of less than 5,000 copies of a single unit, or no more than 25,000 units in the aggregate of multiple units, will not be deemed to be printing. A unit is defined as one sheet, size 8½ by 11 inches one side only, one color. A requirement is defined as a single publication document.</p> <p>(1) The term "printing" includes the following processes: composition, plate making, presswork, binding, microform publishing, or the end items produced by such processes.</p> <p>(2) If fulfillment of the Contract will necessitate reproduction in excess of the limits set forth above, the Contractor shall notify the Contracting Officer in writing and obtain the Contracting Officer's approval prior to acquiring on DOE's behalf production, acquisition, and dissemination of printed matter. Such printing must be obtained from the Government Printing Office (GPO), a Contract source designated by GPO or a Joint Committee on Printing authorized federal printing plant.</p> <p>(3) Printing services not obtained in compliance with this guidance will result in the cost of such</p>

	<p>printing being disallowed.</p> <p>(4) The Contractor will include in each of his subcontracts hereunder a provision substantially the same as this clause including this paragraph (4).</p>
<p>I.97</p>	<p>DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009)</p> <p>(a) Purpose. The purpose of this clause is to ensure that the Contractor (1) is not biased because of its financial, contractual, organizational, or other interests which relate to the work under this contract, and (2) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.</p> <p>(b) Scope. The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliates or their successors in interest (hereinafter collectively referred to as "Contractor") in the activities covered by this clause as a prime Contractor, subcontractor, cosponsor, joint venturer, consultant, or in any similar capacity. For the purpose of this clause, affiliation occurs when a business concern is controlled by or has the power to control another or when a third party has the power to control both.</p> <p>(1) Use of Contractor's Work Product.</p> <p>(i) The Contractor shall be ineligible to participate in any capacity in Department contracts, subcontracts, or proposals therefore (solicited and unsolicited) which stem directly from the Contractor's performance of work under this contract for a period of (Contracting Officer see 48 CFR 909.507-2 and enter specific term) years after the completion of this contract. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any advisory and assistance services work under this contract on any of its products or services or the products or services of another firm if the Contractor is or has been substantially involved in their development or marketing. Nothing in this subparagraph shall preclude the Contractor from competing for follow-on contracts for advisory and assistance services.</p> <p>(ii) If, under this contract, the Contractor prepares a complete or essentially complete statement of work or specifications to be used in competitive acquisitions, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.</p> <p>(iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard and commercial items to the Government.</p> <p>(2) Access to and use of information.</p> <p>(i) If the Contractor, in the performance of this contract, obtains access to information, such as Department plans, policies, reports, studies, financial plans, internal data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or data which has not been released or otherwise made available to the public, the Contractor agrees that without prior written approval of the Contracting Officer it shall not—</p> <p>(A) use such information for any private purpose unless the information has been released or otherwise made available to the public;</p>

	<p>(B) compete for work for the Department based on such information for a period of six (6) months after either the completion of this contract or until such information is released or otherwise made available to the public, whichever is first;</p> <p>(C) submit an unsolicited proposal to the Government which is based on such information until one year after such information is released or otherwise made available to the public; and</p> <p>(D) release such information unless such information has previously been released or otherwise made available to the public by the Department.</p> <p>(ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data, data protected by the Privacy Act of 1974 (5 U.S.C. 552a), or other confidential or privileged technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.</p> <p>(iii) The Contractor may use technical data it first produces under this contract for its private purposes consistent with paragraphs (b)(2)(i) (A) and (D) of this clause and the patent, rights in data, and security provisions of this contract.</p> <p>(c) Disclosure after award.</p> <p>(1) The Contractor agrees that, if changes, including additions, to the facts disclosed by it prior to award of this contract, occur during the performance of this contract, it shall make an immediate and full disclosure of such changes in writing to the Contracting Officer. Such disclosure may include a description of any action which the Contractor has taken or proposes to take to avoid, neutralize, or mitigate any resulting conflict of interest. The Department may, however, terminate the contract for convenience if it deems such termination to be in the best interest of the Government.</p> <p>(2) In the event that the Contractor was aware of facts required to be disclosed or the existence of an actual or potential organizational conflict of interest and did not disclose such facts or such conflict of interest to the Contracting Officer, DOE may terminate this contract for default.</p> <p>(d) Remedies. For breach of any of the above restrictions or for nondisclosure or misrepresentation of any facts required to be disclosed concerning this contract, including the existence of an actual or potential organizational conflict of interest at the time of or after award, the Government may terminate the contract for default, disqualify the Contractor from subsequent related contractual efforts, and pursue such other remedies as may be permitted by law or this contract.</p> <p>(e) Waiver. Requests for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interests of the Government, the Contracting Officer may grant such a waiver in writing.</p>
I.98	DEAR 952.223-78 SUSTAINABLE ACQUISITION PROGRAM (OCT 2010) (a) Pursuant to Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the Department of Energy (DOE) is committed to managing

its facilities in an environmentally preferable and sustainable manner that will promote the natural environment and protect the health and well being of its Federal employees and contractor service providers. In the performance of work under this contract, the Contractor shall provide its services in a manner that promotes the natural environment, reduces greenhouse gas emissions and protects the health and well being of Federal employees, contract service providers and visitors using the facility.

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

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

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

(3) Energy efficient products are at <http://energystar.gov/products> for Energy Star products.

(4) Energy efficient products are at <http://www.femp.energy.gov/procurement> for FEMP designated products.

(5) Environmentally preferable and energy efficient electronics including desktop computers, laptops and monitors are at <http://www.epeat.net> the Electronic Products Environmental Assessment Tool (EPEAT) the Green Electronics Council site.

(6) Green house gas emission inventories are required, including Scope 3 emissions which include contractor emissions. These are discussed at Section 13 of Executive Order 13514 which can be found at <http://www.archives.gov/federal-register/executive-orders/disposition.html>.

(7) Non-Ozone Depleting Alternative Products are at <http://www.epa.gov/ozone/strathome.html>.

(8) Water efficient plumbing products are at <http://epa.gov/watersense>.

(c) The clauses at FAR [52.223-2](#), Affirmative Procurement of Biobased Products under Service and Construction Contracts, [52.223-15](#), Energy Efficiency in Energy Consuming Products, and [52.223-17](#) Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, require the use of products that have biobased content, are energy efficient, or have recycled content. To the extent that the services provided by the Contractor require provision of any of the above types of products, the Contractor must provide the energy efficient and environmentally sustainable type of product unless that type of product -

(1) Is not available;

(2) Is not life cycle cost effective or does not exceed 110% of the price of alternative items if life cycle cost data is unavailable (EPEAT is an example of lifecycle costs that have been analyzed by

DOE and found to be acceptable at the silver and gold level);

(3) Does not meet performance needs; or,

(4) Cannot be delivered in time to meet a critical need.

(d) In the performance of this contract, the Contractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (<http://www.epa.gov/greeningepa/practices/eo13423.htm>) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (<http://www.archives.gov/federal-register/executive-orders/disposition.html>). The Contractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic performance. This guide includes information concerning recycled content products, biobased products, energy efficient products, water efficient products, alternative fuels and vehicles, non-ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at:
<http://management.energy.gov/documents/AcqGuide23pt0Rev1.pdf>.

(e) Contractors must establish and maintain a documented energy management program which includes requirements for energy and water efficient equipment, EnergyStar or WaterSense, as applicable and procedures for verification of purchases, following the criteria in DOE Order 430.2B, Departmental Energy, Renewable Energy, and Transportation Management, Attachment 1, or its successor to the extent required elsewhere in the contract. This requirement should not be flowed down to subcontractors.

(f) In complying with the requirements of paragraph (c) of this clause, the Contractor(s) shall coordinate its activities with and submit required reports through the Environmental Sustainability Coordinator or equivalent position. Reporting under this paragraph and paragraphs (g) and (h) of this clause is only required if the contract or subcontract offers subcontracting opportunities for energy efficient and environmentally sustainable products or services exceeding \$100,000 in any contract year.

(g) The Contractor shall prepare and submit performance reports, if required, using prescribed DOE formats, at the end of the Federal fiscal year, on matters related to the acquisition of environmentally preferable and sustainable products and services. This is a material delivery under the contract. Failure to perform this requirement may be considered a failure that endangers performance of this contract and may result in termination for default.

(h) These provisions shall be flowed down only to first tier subcontracts exceeding the simplified acquisition threshold that support operation of the DOE facility and offer significant subcontracting opportunities for energy efficient or environmentally sustainable products or services. The Subcontractor, if subcontracting opportunities for sustainable and environmentally preferable products or services exceed the threshold in paragraph (f) of this clause, will comply with the procedures in paragraphs (c) through (f) of this clause regarding the collection of all data necessary to generate the reports required under paragraphs (c) through (f) of this clause, and submit the reports directly to the Prime Contractor's Environmental Sustainability Coordinator at the supported facility. The Subcontractor will advise the Contractor if it is unable to procure energy efficient and environmentally sustainable items and cite which of the reasons in paragraph

	<p>(c) of this clause apply. The reports may be submitted at the conclusion of the subcontract term provided that the subcontract delivery term is not multi-year in nature. If the delivery term is multi-year, the Subcontractor shall report its accomplishments for each Federal fiscal year in a manner and at a time or times acceptable to both parties. Failure to comply with these reporting requirements may be considered a breach of contract with attendant consequences.</p> <p>(i) When this clause is used in a subcontract, the word "Contractor" will be understood to mean "Subcontractor."</p>
<p>I.99</p>	<p>DEAR 952.226-74, DISPLACED EMPLOYEE HIRING PREFERENCE (JUNE 1997)</p> <p>(a) Definition. Eligible employee means a current or former employee of a contractor or subcontractor employed at a Department of Energy Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligibility criteria contained in the Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the particular position is available.</p> <p>(b) Consistent with Department of Energy guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the Contractor agrees that it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.</p> <p>(c) The requirements of this clause shall be included in subcontracts at any tier (except for subcontracts for commercial items pursuant to 41 U.S.C. 403) expected to exceed \$500,000.</p>
<p>I.100</p>	<p>DEAR 952.242-70 TECHNICAL DIRECTION (DEC 2000)</p> <p>(a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer's Representative (COR). The term "technical direction" is defined to include, without limitation:</p> <p>(1) Providing direction to the Contractor that redirects contract effort, shift work emphasis between work areas or tasks, require pursuit of certain lines of inquiry, fill in details, or otherwise serve to accomplish the contractual Statement of Work.</p> <p>(2) Providing written information to the Contractor that assists in interpreting drawings, specifications, or technical portions of the work description.</p> <p>(3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the Government.</p> <p>(b) The Contractor will receive a copy of the written COR designation from the Contracting Officer. It will specify the extent of the COR's authority to act on behalf of the Contracting Officer.</p>

	<p>(c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that-</p> <ul style="list-style-type: none"> (1) Constitutes an assignment of additional work outside the Statement of Work; (2) Constitutes a change as defined in the contract clause entitled "Changes;" (3) In any manner causes an increase or decrease in the total estimated contract cost, the fee (if any), or the time required for contract performance; (4) Changes any of the expressed terms, conditions or specifications of the contract; or (5) Interferes with the Contractor's right to perform the terms and conditions of the contract. <p>(d) All technical direction shall be issued in writing by the COR.</p> <p>(e) The Contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the Contractor must not proceed and must notify the Contracting Officer in writing within five (5) working days after receipt of any such instruction or direction and must request the Contracting Officer to modify the contract accordingly. Upon receiving the notification from the Contractor, the Contracting Officer must-</p> <ul style="list-style-type: none"> (1) Advise the Contractor in writing within thirty (30) days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract; (2) Advise the Contractor in writing within a reasonable time that the Government will issue a written change order; or (3) Advise the Contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR. <p>(f) A failure of the Contractor and Contracting Officer either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect to the technical direction will be subject to the provisions of the clause entitled "Disputes."</p>
<p>I.101</p>	<p>DEAR 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS (AUG 2009)</p> <ul style="list-style-type: none"> (a) The Contractor shall take advantage of travel discounts offered to Federal Contractor employee travelers by AMTRAK, hotels, motels, or car rental companies, when use of such discounts would result in lower overall trip costs and the discounted services are reasonably available. Vendors providing these services may require the Contractor employee to furnish them a letter of identification signed by the authorized Contracting Officer. (b) Contracted airlines. Contractors are not eligible for GSA contract city pair fares.

	<p>(c) Discount rail service. AMTRAK voluntarily offers discounts to Federal travelers on official business and sometimes extends those discounts to Federal contractor employees.</p> <p>(d) Hotels/motels. Many lodging providers extend their discount rates for Federal employees to Federal contractor employees.</p> <p>(e) Car rentals. Surface Deployment and Distribution Command (SDDC) of the Department of Defense negotiates rate agreements with car rental companies that are available to Federal travelers on official business. Some car rental companies extend those discounts to Federal contractor employees.</p> <p>(f) Obtaining travel discounts.</p> <p>(1) To determine which vendors offer discounts to Government contractors, the Contractor may review commercial publications such as the Official Airline guides Official Traveler, Innovata, or National Telecommunications. The Contractor may also obtain this information from GSA Contract Travel Management Centers or the Department of Defense's Commercial Travel Offices.</p> <p>(2) The vendor providing the service may require the Government contractor to furnish a letter signed by the Contracting Officer. The following illustrates a standard letter of identification.</p> <p>OFFICIAL AGENCY LETTERHEAD</p> <p>TO: Participating Vendor</p> <p>SUBJECT: OFFICIAL TRAVEL OF GOVERNMENT CONTRACTOR</p> <p>(FULL NAME OF TRAVELER), the bearer of this letter is an employee of (COMPANY NAME) which has a contract with this agency under Government contract (CONTRACT NUMBER). During the period of the contract (GIVE DATES), AND WITH THE APPROVAL OF THE CONTRACT VENDOR, the employee is eligible and authorized to use available travel discount rates in accordance with Government contracts and/or agreements. Government Contract City Pair fares are not available to Contractors.</p> <p>SIGNATURE, Title and telephone number of Contracting Officer</p>
<p>I.102</p>	<p>DEAR 970.5223-6 EXECUTIVE ORDER 13423, STRENGTHENING FEDERAL ENVIRONMENTAL, ENERGY, AND TRANSPORTATION MANAGEMENT (OCT 2010)</p> <p>Since this contract involves Contractor operation of Government-owned facilities and/or motor vehicles, the provisions of Executive Order 13423 are applicable to the Contractor to the same extent they would be applicable if the Government were operating the facilities or motor vehicles. Information on the requirements of the Executive Order may be found at http://www.archives.gov/federal-register/executive-orders/.</p>