GENERAL PROVISIONS
FOR
FIRM-FIXED-PRICE
CONSTRUCTION SUBCONTRACTS

This set of General Provisions consists of Sections A through C.
The clauses in Section C apply only if specifically stated in the subcontract or in Section C.

(FFP Const 10/26, Rev.10)



"Pursuant to Department of Energy Prime Contract 89303322DEM000077, all occurrences of Nuclear Waste Partnership (NWP) within this document shall be construed and interpreted as referring to Salado Isolation Mining Contractors (SIMCO)."

Waste Isolation Pilot Plant
Carlsbad, New Mexico

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GENERAL PROVISIONS FOR FIRM-FIXED-PRICE CONSTRUCTION SUBCONTRACTS

This document incorporates one or more clauses by reference, with the same force and effect as if they were printed in full text. Nuclear Waste Partnership LLC (NW P) is not a Federal Agency; the use of the referenced text is for the administrative convenience of NW P. Upon request, the Buyer will make the full text available. The terms "Contacting Officer", "Contractor", and "Subcontractor" shall be changed to properly identify the parties. See supplemental definitions under Section B.

DEFINITIONS

Whenever used in this document with initial capitalization, the following definitions shall be applicable unless the context indicates otherwise:

A. "Buyer" shall mean the NW P representative(s) authorized to enter into the Order with the Subcontractor and to effect modifications and take other action hereunder. W here the context requires, the term "Buyer" may also refer generally to NW P.

B. "Contracting Officer" shall mean a person with the authority to enter into, administer, and/or terminate contracts. In FAR and DEAR clauses referenced herein, the term may be interchangeable with NW P and/or Buyer.

C. "DEAR" shall mean the Department of Energy Acquisition Regulation.

D. "DOE" shall mean the United States Department of Energy or any duly authorized representative thereof including any successor or predecessor. The term includes the term "Government."

E. "FAR" shall mean the Federal Acquisition Regulation.

F. "Order" shall mean the agreement for the furnishing of supplies and services to NW P. The term includes the term "Subcontract" or “Purchase Order.”

G. "Subcontractor" shall mean the person or organization entering into the Order with NW P. The term includes the term "Seller."

H. "NW P" shall mean Nuclear Waste Partnership LLC, Waste Isolation Pilot Plant.

GENERAL

A. The Order, which shall be deemed to include the Purchase Order or Subcontract and related plans, drawings, specifications, and other documents, contains the entire agreement and understanding between the parties as to the subject matter of the Order, and merges and supersedes all prior agreements, understandings, commitments, representations, writings, and discussions between them. Neither of the parties will be bound by any prior obligations, conditions, warranties, or representations with respect to the subject matter of the Order. The parties agree that recourse may not be had to alleged prior dealings, usage of trade, course of dealing, or course of performance to explain or supplement the express terms of the Order.

B. The failure of either party to enforce at any time any of the provisions of the Order or to require at any time performance by the other party of any of such provisions shall in no way be construed to be a waiver of such provisions, nor in any way to affect the

validity of the Order or any parts thereof, or the right of either party thereafter to enforce any and all provisions.

C. The headings used in the Order are not to be construed as modifying, limiting, or expanding in any way the scope or extent of the provisions in the Order.

D. All references herein to DEAR or FAR are made to those in effect on the date of the Order, unless specifically stated.

E. Any inconsistency in this solicitation or Order shall be resolved by giving precedence in the following order: (1) the Contract, including General Provisions, (2) Statement of Work (SOW), (3) Specifications, (4) Special Conditions, and (5) Drawings.

F. The Subcontractor shall perform all work pursuant to the Order as an independent contractor. If any part of the work is subcontracted, the Subcontractor is responsible for having that subcontracted work comply with the terms of the Order. No act or order of NW P shall be deemed to be an exercise of supervision or control of performance hereunder. No provision of the Order and no action taken by NW P under the Order shall be construed to make or constitute NW P the employer or joint employer of any of the employees of the Subcontractor or any lower-tier Subcontractor.

G. The Order does not bind or purport to bind the Government except as specifically provided in the Order, nor give privities of contract to the DOE through the NW P relationship with the DOE.

SECTION A - APPLIES REGARDLESS OF THE ORDER PRICE

A.1 ACCIDENT PREVENTION

A. The Subcontractor shall provide and maintain work environments and procedures which will (1) safeguard the public, DOE, NW P and other Contract/Subcontract personnel, as well as property, materials, supplies, and equipment exposed to Subcontractor operations and activities, (2) avoid interruptions of NW P' operations and delays in project completion dates, and
(3) control costs in the performance of the Subcontract.

B. For the purposes of paragraph A above on subcontracts for construction or dismantling, demolition, or removal of improvements, the Subcontractor shall:

1. Provide appropriate safety barricades, signs, and signal lights;

2. Comply with the standards issued by the Secretary of Labor at 29 CFR 1910 and 29 CFR Part 1926; and 10 CFR 851.

3. Ensure that any additional measures NW P determines to be reasonably necessary for the purposes are taken.

C. Whenever NW P becomes aware of any noncompliance with these requirements or any condition that poses a serious or imminent danger to the health or safety of the public or NWP/Government personnel, NW P shall notify the Subcontractor verbally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Subcontractor or the Subcontractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that the corrective action is required. After receiving the notice, the Subcontractor shall immediately take corrective action. If the Subcontractor fails or refuses to promptly take corrective action, NW P may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Subcontractor shall not be entitled to any equitable adjustment of the

Subcontract price or extension of the performance schedule on any stop work order issued under this article.

D. The Subcontractor shall take all reasonable precautions in the performance of the work under the Order to protect the safety and health of employees and of members of the public, and shall comply with all applicable safety and health regulations and requirements (including reporting requirements) of NW P. NW P shall notify the Subcontractor, in writing, of any noncompliance with the provisions of the article and the corrective action to be taken after receipt of such notice, and the Subcontractor shall immediately take corrective action. Upon NW P's request, the Subcontractor shall submit a management program and implementation plan to NW P for review and approval within thirty (30) days after the date of award of the Order. In the event that the Subcontractor fails to comply with said regulations or requirements of NW P, the Buyer may, without prejudice to any other legal or contractual rights of NW P, issue an order stopping all or any part of the work; thereafter, a start order for resumption of the work may be issued at the discretion of NW P. The Subcontractor shall make no claim for an extension of time or for compensation or damages by reason of, or in connection with, such work stoppage.

E. The Subcontractor shall insert this article, including this paragraph E, with appropriate changes in the designation of the parties, in all lower-tier subcontracts.

F. Before commencing the work, the Subcontractor shall:

1. Submit a written proposed plan for implementing this article. The plan shall include an analysis of the significant hazards to life, limb, and property inherent in the Subcontract work performance and a plan for controlling these hazards; and

2. Meet with a representative(s) of NW P to discuss and develop a mutual understanding relative to the administration of the overall work safety program under the Subcontract to accommodate the additional work, heeding any direction that may be provided by NW P. The Seller shall not commit or permit any act that will interfere with the performance of work by any other Subcontractor or by NWP/Government employees.

A.2 ADDITIONAL BOND SECURITY - FAR 52.228-2 (OCT 1997)

A. The Subcontractor shall promptly furnish additional security required to protect NW P, the Government and persons supplying labor or materials under this subcontract if—

1. Any surety upon any bond, or issuing financial institution for other security, furnished with this subcontract becomes unacceptable to NW P;

2. Any surety fails to furnish reports on its financial condition as required by NW P;

3. The subcontract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the NW P; or

4. An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Subcontractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, NW P has the right to immediately draw on the ILC.

A.3 APPROVALS

Approval by NW P of designs, work drawings, specifications, reports, or any other data submitted by the Seller hereunder shall not affect or relieve the Subcontractor from any responsibility to furnish said item, in full conformance with the requirements of the Order.

A.4 ASSIGNMENT

A. NW P may assign the Order, in whole or in part, to the DOE or to such party as the DOE may designate to perform NW P' obligations hereunder. Upon receipt by the Subcontractor of written notice that the DOE or a party so designated by the DOE has accepted an assignment of the Order, NW P shall be relieved of all responsibility hereunder and the Subcontractor shall thereafter look solely to such assignee for performance of NW P' obligations. The Subcontractor shall not assign or transfer the Order or any interest herein, or claims hereunder, without the prior written consent of NW P or NW P' assignee.

B. The Subcontractor shall not furnish or disclose to any assignee under the Subcontract any confidential or sensitive document (including the Subcontract) or information related to work under the Subcontract until NW P authorizes such action in writing.

A.5 AVAILABILITY OF AND USE OF UTILITY SERVICES - FAR 52.236-14 (APR 1984)

Seller shall contact Buyer to obtain list of available utilities unless the list is provided elsewhere in the Order.

A.6 BUY AMERICAN ACT – CONSTRUCTION MATERIALS - FAR 52.225-9 (FEB 2009)

A. Definitions. As used in this clause--

"Commercially available off-the-shelf (COTS) item means any item of supply (including construction material) that is (1) a commercial item (as defined in paragraph (1) of the definition at FAR 2.101); (2) Sold in substantial quantities in the commercial marketplace; and (3) 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. The term does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702), such as agricultural products and petroleum products.

"Components" means those articles, materials, and supplies incorporated directly into construction materials.

"Construction Material" means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction Material also includes an item brought to the site pre-assembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, which are discrete systems incorporated into public building or work and which are produced as a complete system, shall be evaluated as a single and distinct Construction Material regardless of when or how the individual parts or components of such systems are delivered to the construction site. Materials purchased directly by NW P or the Government are supplies, not construction material.

"Cost of Components" means—(1) For components purchased by the Subcontractor, 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 Subcontractor, 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) an un-manufactured construction material mined or produced in the United States, or (2) a construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all components. Components of foreign origin of the same class or kind as the construction materials determined to be unavailable pursuant to subparagraph 25.2.2(a)(2) of the Federal Acquisition Regulation (FAR) shall be treated as domestic; or the construction material is a COTS item

"Foreign Construction Material" means a construction material other than a domestic construction material.

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

B. Domestic Preference.

1. This clause implements the Buy American Act (41 U.S.C. 10a - 10d) by providing a preference for domestic construction material. In accordance with 41 U.S.C. 431, the component test of the Buy American Act is waived for construction material that is a COTS item (See FAR 12.505(a)(2)). The Subcontractor shall use only domestic construction material in performing this subcontract, 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 item or to excepted Construction Material or components listed by the Government as follows: None.

3. Other foreign Construction Material may be added to the list in paragraph (B)(2) of this clause if NWP or the Government determines that:

   a) The cost would be unreasonable (the cost of a particular Domestic Construction Material shall be determined to be unreasonable when the cost of such material exceeds the cost of foreign material by more than six percent, unless the agency head determines a higher percentage to be appropriate);

   b) The application of the restriction of the Buy American Act to a particular Construction Material would be impracticable or inconsistent with the public interest; or

   c) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

4. The Subcontractor agrees that only Domestic Construction Material will be used by the Contractor, Subcontractors, material men, and suppliers in the performance of this contract, except for foreign Construction Materials, if any, listed by paragraph (B)(2) of this clause.

C. Request for determination of inapplicability of the Buy American Act.

1. Subcontractors requesting to use foreign Construction Material under paragraph (b)(3) of this clause shall provide adequate information for NW P/Government evaluation of the request for a determination regarding the inapplicability of the Buy American Act. Each submission shall include a description of the foreign and Domestic Construction Materials, including unit of measure, quantity, price, time of delivery or availability, location of the construction project, name and address of the proposed Subcontractor, and a detailed justification of the reason for use of foreign materials cited in accordance with paragraph (B)(3) of this clause. A submission 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. 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).

2. Any subcontractor request for a determination submitted after award shall explain why the subcontractor could not reasonable foresee the need for such determination and could not have requested the determination before subcontract award. If the does not submit a satisfactory explanation, NW P need not make a determination. If the Government determines after contract award that an exception to the Buy American Act applies, the Subcontract shall be modified to allow use of the foreign Construction Material, andadequate consideration shall be negotiated. However, when the basis for the exception in the unreasonable price of a Domestic Construction Material, adequate consideration shall not be less than the differential established in paragraph (B)(3)(i) of this clause.

3. If the Government does not determine that an exception to the Buy American Act applies, the use of that particular foreign Construction Material will be a failure to comply with the Act.

D. For evaluation of requests under paragraph (C) of this clause based on unreasonable cost, the following information and any applicable supporting data based on the survey of supplies shall be included in the request:

FOREIGN AND DOMESTIC CONSTRUCTION MATERIALS PRICE COMPARISON

Construction Material Description	Unit of Measure	Quantity	Price (Dollars)
Item 1 Foreign Construction Material			
Domestic Construction Material			
Item 2 Foreign Construction Material			
Domestic Construction Material			

List name, address, telephone number, and contact for suppliers surveyed. Attach a copy of response; if oral, attach summary. Include other applicable supporting information.

* Include all delivery costs to the construction site and any applicable duty (whether or not duty-free entry certificate is used).

A.7 CHANGES - FAR 52.243-4 (JUN 2007)

A.8 CLEANING UP - FAR 52.236-12 (APR 1984)

A.9 CONFIDENTIALITY OF INFORMATION

A. To the extent that the work under the Order requires that the Subcontractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Subcontractor shall, after receipt thereof, treat such information as confidential and agree not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by NW P in writing. The foregoing obligations, however, shall not apply to:

1. Information which, at the time of receipt by the Subcontractor, is in the public domain.

2. Information which is published after receipt thereof by the Subcontractor or otherwise becomes part of the public domain through no fault of the Subcontractor.

3. Information which the Subcontractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from NW P or other companies.

4. Information which the Subcontractor can demonstrate was received from a third party that did not require the Subcontractorto hold it in confidence.

B. The Subcontractor shall obtain the written agreement, in a form satisfactory to NW P, of each employee permitted access, whereby the employee agrees that he/she will not discuss, divulge, or disclose any such information or data to any person or entity except those persons within the Seller's organization directly concerned with the performance of the Subcontract.

C. The Subcontractor agrees, if requested by NW P, to sign an agreement identical in all material respects to the provisions of this clause with each company supplying information to the Subcontractor under the Order, and to supply a copy of such agreement to NW P. From time to time upon request of NW P, the Subcontractor shall supply NW P with reports itemizing information received as confidential or proprietary, and setting forth the company or companies from which the Subcontractor received such information.

D. The Subcontractor agrees that upon request by NW P it will execute a NW P approved agreement with any party that has given or furnished access to facilities or proprietary data, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by NW P, such an agreement shall also be signed by Subcontractor personnel.

E. This clause shall flow down to all lower-tier Subcontracts.

A.10 COST REDUCTION PROPOSALS

A. General

The Subcontractor is encouraged to develop, prepare, and submit Cost Reduction Proposals (CRP's) to NW P through the Buyer. If accepted, the Subcontractor shall share in any net savings realized from accepted CRPs in amounts agreed to by the parties.

B. Procedure for submission of CRPs. Each CRP submitted by the Subcontractor shall include, at a minimum, the following information:

1. A description of the existing requirements, the proposed CRP requirements, comparative advantages and disadvantages of each, and the effect of the proposed CRP on these requirements.

2. A description of the changes that must be made if the proposed CRP is accepted, including changes or waivers to design requirements, regulatory requirements, DOE policy documents, etc.

3. A separate, detailed cost estimate for the existing requirements and the proposed CRP. The estimate for the proposed CRP shall take into account the costs of implementing the CRP, including the costs the DOE or NW P may incur in implementing the proposed CRP.

4. A statement of the time by which acceptance of the proposed CRP must be issued in order to achieve the maximum cost reduction.

5. The suggested sharing period for the proposed CRP.

C. Calculation of Estimated Net Savings.

Estimated net savings shall be calculated by subtracting the total cost of the proposed CRP (to the Subcontractor, NW P, and the DOE) from the total cost of the existing requirements.

D. Acceptance for Negotiation or Rejection of CRP's.

NW P will notify the Subcontractor by letter that the CRP will be accepted for negotiation with the Subcontractor or rejected. The only CRP that will be accepted for negotiation are those which
(a) demonstrate a result in a reduction in the total agreed upon estimated cost for the annual period (October 1 through September 30), and (B) will not reappear as costs in subsequent annual periods. The items to be negotiated shall, at a minimum, include the estimated net savings of the change in requirements proposed by the CRP, the estimated reduction in the agreed upon estimated cost for the annual period, and the Subcontractor's share of such net savings. If the CRP is rejected, the letter will set forth the reasons for rejection. If the parties are unable to negotiate acceptable terms, the CRP will be deemed to have been rejected. Until an agreement is negotiated, the Seller shall perform in accordance with existing requirements. Negotiated agreements will be reflected in a CRP Implementation Agreement signed by both the Subcontractor and NW P.

E. Audit of Actual Savings.

The DOE or NW P shall have the right to audit the actual costs of an accepted CRP to determine the extent of actual savings. If the actual savings are significantly more or less than the estimated savings of the CRP or the reduction of the estimated cost for the annual period, the amount awarded under the CRP shall be adjusted.

F. Relationship to Other Incentives.

Only those benefits of an accepted CRP, not rewarded under goal achievement objectives, shall be rewarded under this clause.

G. Subcontracts.

The Subcontractor may include an appropriate clause similar to this clause in any lower-tier Subcontract. In calculating any estimated net savings in a CRP under the Subcontract, the Subcontractor's preparation, submission, testing, development, and implementation costs shall include any of the Subcontractor's allowable costs, and any CRP incentive payments to a lower- tier Subcontractor clearly resulting from the acceptance of such CRP. The Subcontractor may choose any arrangement for the Subcontractor's CRP incentive payments, provided that the payments shall not reduce the DOE's share of subcontract net savings.

H. Disputes.

Actions taken under this clause shall not be subject to the "Disputes" clause or otherwise subject to litigation under the Contract Disputes Act of 1978 (41 U.S.C. 601-613).

A.11 DEFAULT (FIXED-PRICE CONSTRUCTION - FAR52.249-10 (APR 1984)

A.12 DIFFERING SITE CONDITIONS(APR 1984) - FAR 52.236-2 (APR 1984)

A.13 DISPUTES, ARBITRATION, AND GOVERNING LAW

A. DISCUSSION, NEGOTIATION, AND AGREEMENT

Seller and Buyer agree to make good-faith efforts to settle any dispute or claim that arises under this agreement through discussion and negotiation. If such efforts fail to result in a mutually agreeable resolution, the parties shall consider the use of arbitration as described in Section B.

B. ARBITRATION

For all disputes between the parties pertaining to the Order which are not disposed of by agreement, the parties shall consider arbitration.

1. Arbitration. Any claim for monetary damages arising out of or relating to this contract, or the breach thereof, may be submitted for resolution to [*Name of Arbitration Organization*] and shall be resolved by [*Name of Arbitration Organization*] in accordance with its rules of procedure (except as such rules may be otherwise modified herein by written agreement of the parties).

2. Remedy. Any such arbitral award shall be in satisfaction of all claims for money damages, by either party against the other, arising out of the same factual circumstance.

3. Confidentiality. Except as may be otherwise required by law or order of a court of competent jurisdiction, neither a party nor an arbitrator may disclose the existence, content, or result of any proceeding hereunder without the prior written consent of both parties. However, the content and result of an arbitration proceeding will be disclosed to the DOE contracting officer and may be reviewed by DOE counsel. The confidentiality of all proceedings shall be preserved by the parties.

4. Finality. All arbitration proceedings shall be final, binding, and enforceable in any court of competent jurisdiction. Except as otherwise prescribed in sections 9-11 of the Federal Arbitration Act, Pub. L. No. 68-401 (1925) (codified as amended at 9 U.S.C. § 1 et seq.), there shall be no opportunity for judicial review of arbitral decisions rendered. The award of the arbitrator(s) shall be accompanied by a reasoned opinion, issued in writing. Judgment on the award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction.

5. Fees. Each party shall be responsible for its share of the arbitration fees in accordance with the applicable rules of arbitration, and shall also be responsible for its own attorney's fees. In the event a party fails to comply with the arbitrator's award, the other party is entitled to costs of suit, including reasonable attorney's fees, for having to defend or enforce the award.

C. LITIGATION

All disputes between the parties pertaining to the Order which are not disposed of by agreement or arbitration shall be decided by litigation. Litigation initiated by either party against the other to resolve a dispute arising under or pertaining to the Order shall be instituted in the United States District Court for the District of New Mexico (or in another division of that district should the parties so agree) if that court has jurisdiction, and neither party will move for a change of venue or, pursuant to 28 U.S.C. 1404, for a transfer from said district or division. If the United States District Court for the District of New Mexico does not have jurisdiction but another United States District Court does, such litigation will be initiated in the latter. In the event no United States District Court has jurisdiction, the litigation will be initiated (and insofar as the parties may control, conducted through the trial stage) in the District Court of the Judicial District of the State of New Mexico, in Eddy County. The Subcontractor shall proceed diligently with the performance of the Order pending final resolution of any dispute arising under or related to the Order.

The terms of the Order shall be construed and interpreted in accordance with the body of law applicable to the procurement of goods and services by the Government. Insofar as the said body of law is not dispositive of a dispute, the laws of the State of New Mexico shall govern.

A.14 GRATUITIES - FAR 52.203-3 (APR 1984)

The Government and NW P prohibit their employees from using their official position for personal financial gain, or from accepting any personal advantage from anyone under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their official duties. The Seller and/or its employees shall not, under circumstances which might reasonably be interpreted as an attempt to influence the recipients in the conduct of their duties, extend any gratuity or special favor to employees of the Government or NW P and shall not accept any gratuity or special favor from individuals or organizations with whom the Seller is doing business or proposing to do business in accomplishing work under the Subcontract.

A.15 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA

A. "Hazardous Material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the Contract).

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

MATERIAL (If none, insert "None")	Identification No.

C. This list must be updated during performance of the Contract whenever the Subcontractor determines that any other material to be delivered under this Subcontract is hazardous.

D. The Subcontractor agrees to submit, for each item as required prior to award, a MSDS, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all Hazardous Material identified in paragraph (B) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the Subcontractor is the actual manufacturer of these items. Failure to submit the MSDS prior to award may result in the Subcontractor being considered non responsive and ineligible for award.

E. If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (D) of this clause, the Subcontractor shall promptly notify NW P and resubmit the data.

F. Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Subcontractor of any responsibility or liability for the safety of Government, NW P, or Subcontractor personnel or property.

G. Nothing contained in this clause shall relieve the Subcontractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with Hazardous Material.

H. The Government's rights in data furnished under this Contract with respect to Hazardous Material are as follows:

1. To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to—

   a) Appraise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

   b) Obtain medical treatment for those affected by the material; and

   c) Have others use, duplicate, and disclose the data for the Government for these purposes.

2. To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (H)(1) of this clause, in precedence over any other clause of this Contact providing for rights in data.

3. The Government is not precluded from using similar or identical data acquired from other sources.

This clause shall flow down to all lower-tier Subcontracts.

A.16 INSPECTION OF CONSTRUCTION - FAR 52.246-12 (AUG1996)

A.17 LAWS, REGULATIONS, ORDERS AND DOE DIRECTIVES

A. In performing Work under this Subcontract and/or while present within the WIPP Site or any DOE-owned or leased building, the Subcontractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), and obtain all required permits, unless relief has been granted in writing by the appropriate regulatory agency. The Subcontractor shall comply with those DOE orders and other directives applicable to NWP's management and operating (M&O) contract and also with all applicable departmental policies, plans, programs, and management directives identified and listed in the Subcontract. This requirement also applies to all lower-tier subcontractors.

B. The Subcontractor shall make no claim, including a claim for equitable adjustment under the changes clause of the Subcontract, for additional costs, fees, or extensions of time of performance relating to compliance with such laws, regulations, orders and directives.

C. NWP may direct the Subcontractor to comply with additional DOE directives, local directives and revisions thereto, as follows:

1. Pursuant to and in accordance with the changes clause of the Subcontract, with respect to changes in directives within the general scope of the Subcontract;

2. Pursuant to the clause at Environment, Safety, and Health (government owned or leased), and in accordance with the changes clause of the Subcontract with respect to changes in the series between 5400 and 5500 (Environment Quality and Impact); and

3. Pursuant to the clause at DEAR 952.204-2, Security, and in accordance with the changes clause of the Subcontract, with respect to changes in directives in the following series: (i) between 5630 and 5640 (Safeguards and Security), (ii) between 5640 and 5650 (International Security Affairs), and (iii) between 5650 and 5660 (Classification).

D. Copies of Department of Energy Directives may be obtained without charge from:

U.S. Department ofEnergy
Distribution Section
Federal Building
Washington, DC 20585
https://www.directives.doe.gov

E. The Buyer and his/her representative(s), expressly authorized in writing to do so, are the only NWP officials authorized to provide explanations as to the applicability of directives. The Buyer is the only NWP official authorized to resolve possible conflicting requirements involving them.

F. Upon receipt of a new or revised Order, the Subcontractor shall review it for consistency with the other terms of the Subcontract and for impacts on funding, labor, and other provisions of the Subcontract. If the Subcontractor considers the

Order to be consistent with the other terms of the Subcontract, it can be implemented within existing funds, labor, and other provisions of the Subcontract, and the implementation will not have a negative impact on the cost, schedule, or other obligations of the Subcontractor, the Subcontractor shall establish an implementation schedule, and so advise the Buyer, within thirty (30) calendar days of receipt.

In the event the Subcontractor considers the Order to be inconsistent with the other terms of the Subcontract, or the requirements of the Order cannot be implemented within existing funding, labor, and other provisions of the Subcontract, the Subcontractor shall so advise the NWP Buyer, within thirty (30) calendar days of receipt. Such notice shall include the basis for the claimed inconsistency and the projected cost of implementation in excess of current funding, labor, and other provisions of the Subcontract. After evaluation of the Subcontractor's position, the Buyer shall issue direction to the Subcontractor, pursuant to the clause entitled "Changes" concerning appropriate implementation of the Order.

The Subcontractor shall incorporate the substance of this clause with respect to applicable orders, excluding any reference to the Changes clause, in lower-tier Subcontracts for performance of the Work at the construction site and as directed by the Buyer.

A.18 LAYOUT OF W ORK - FAR 52.236-17 (APR 1984)

A.19 MATERIAL AND W ORKMANSHIP - FAR 52.236-5 (APR 1984)

A.20 MATERIAL REQUIREMENTS - FAR 52.211-5 (AUG 2000)

A.21 NOTICE OF BUY AMERICAN ACT REQUIREMENT CONSTRUCTION MATERIALS - FAR 52.225-10 (FEB 2009)

A.22 OBLIGATION OF FUNDS

Unless otherwise specifically provided for in the Order, NW P is not obligated to pay any amount in excess of the stated Order or Subcontract price or, where partial funds are released incrementally, the obligated amount as released.

A.23 OPERATIONS AND STORAGE AREAS - FAR 52.236-10 (APR 1984)

A.24 OTHER NW P AND GOVERNMENT SUBCONTRACTORS

NW P may undertake or award Subcontracts for other work or services at or near the site of work for this Order. The Subcontractor agrees to fully cooperate with such other Subcontractors and government employees and carefully fit its own work to such other work as may be directed by NWP. The Subcontractor shall not commit or permit any act which will interfere with the performance of work by any other Subcontractor, Contractor, or by Government employees.

A.25 PAYMENTS UNDER FIXED-PRICED CONSTRUCTION CONTRACTS - FAR 52.232-5 (SEP2002)

A.26 PASSAGE OF TITLE AND LIENS

The Subcontractor agrees to furnish the work free and clear of all liens, claims, and encumbrances. In the event that a lien of any nature shall at any time be filed against the work, or the Subcontractor's or a lower-tier Subcontractor's facility by any person, firm, or corporation which has supplied equipment, materials, services, or data, the Subcontractor agrees promptly, on demand of NW P and at the Subcontractor's expense, to take any and all action necessary to cause any such lien to be released or discharged therefrom. The Subcontractor agrees to save NWP harmless from all liens, claims, or demands in connection with the work.

A.27 PATENT INDEMNITY – CONSTRUCTION SUBCONTRACTS - FAR 52.227-4 (DEC 2007)

A.28 PRICE-ANDERSON AMENDMENTS ACT

A. The Department of Energy has promulgated Procedural Rules For DOE Nuclear Activities (10 CFR 820), Nuclear Safety Management (Quality Assurance Rules) (10 CFR 830), and DOE Contractor Employee Protection Rules (10 CFR 708), and Occupational Radiation Protection Rules (10 CFR 835) in implementation of the Price-Anderson Amendments Act (PAAA) of 1988, Public Law 100-408, August 20, 1988, as amended. These rules govern the conduct of persons involved in DOE nuclear activities, and, in particular, are designed to achieve compliance with DOE nuclear safety requirements. Violation of the applicable rules will provide a basis for the assessment of civil and criminal penalties under the PAAA.

B. This Order is subject to the requirements of the above rules if the performance of work involves products, activities or operations in areas covered by the Price Anderson Nuclear Hazards Indemnity Clauses of this Order.

C. Indemnification of NWP

To the extent permitted by law, the Subcontractor assumes full responsibility and shall indemnify, save harmless, and defend NW P and its principal Subcontractors, their agents, officers, employees, and directors from any civil or criminal liability under Sections 234(a) or 223 (c) of the Act or the implementing regulations at 10 CFR Sections 820, et seq., arising out of the activities of the Subcontractor, its lower-tier Subcontractors, suppliers, agents, employees, officers, or directors. The Subcontractor’s obligation to indemnify and hold harmless shall expressly include attorney’s fees and other reasonable costs of defending any action or proceeding instituted under Sections 234(a) or 223 (c) of the Act or the implementing regulations at 10 CFR Sections 820, et seq.

A copy of the implementing regulations at 10 CFR Sections 820, et seq., will be made available to the Subcontractor upon request.

A.29 PROHIBITION OF ASSIGNMENT OF CLAIMS - FAR 52.232-24 (JAN 1986)

A.30 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES AND IMPROVEMENTS - FAR 52.236-9 (APR 1984)

A.31 PUBLIC RELEASE OF INFORMATION

Information, data, photographs, sketches, advertising, announcements, denial, or confirmation of same, or items of a similar nature, relating to this Order, which Subcontractor desires to release or publish, shall be submitted to NW P for approval eight weeks prior to the desired release date. As part of the approval request, Subcontractor shall identify the specific media to be used as well as other pertinent details of the proposed release. All releases by Subcontractors must have the prior approval of NW P. The Project Sponsor is the DOE. Subcontractor shall include all provisions of this article including this sentence in all subcontracts or purchase orders under this Order. NW P's approval shall not be unreasonably withheld.

A.32 REPORTING OF ROYALTIES

If any royalty payments are directly involved in the Order or are reflected in the Order price, the Subcontractor agrees to report in writing to NW P during the performance of the Order and prior to its completion or final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of the Order together with the names and addresses of the licenser to whom such payments are made and either the patent numbers involved or such other information as will permit identification of the patents or other basis on which the royalties are to be paid. The approval of the DOE or NW P of any individual payments or royalties shall not preclude the Government or NW P at any time from contesting the enforceability, validity or scope of, or title to any patent under which a royalty or payment is made. The provisions of this article, appropriately modified as to parties, shall be included in all Orders that exceed $25,000 unless otherwise approved by the Contracting Officer.

A.33 SITE VISIT (CONSTRUCTION) - FAR 52.236-27 (FEB 1995)

A.34 SPECIFICATIONS AND DRAW INGS FOR CONSTRUCTION - FAR 52.236-21 (FEB 1997)

(ALT. 1 applies if Buyer requires reproducible shop drawings which shall be provided at no increase in Order price. ALT II shall apply if reproducible shop drawings are not required)
(IN ADDITION ALL SPECIFICATIONS SHALL BE PREPARED IN ACCORDANCE WITH DOE PUBLICATION "GENERAL DESIGN CRITERIA MANUAL")

A.35 STATE OF NEW MEXICO GROSS RECEIPTS AND COMPENSATING TAX - FAR 52.229-10 (APR 2003)

The Subcontractor shall pay the New Mexico gross receipts taxes, pursuant to the Gross Receipts and Compensating Tax Act of New Mexico, assessed against the contract fee and costs paid for performance of this Subcontract, or any part or portion thereof, within the State of New Mexico. The allowability of any gross receipts taxes or local option taxes lawfully paid to the State of New Mexico by the Subcontractor or its Subcontractors will be determined in accordance with The Allowable Cost and Payment clause of this contract except as provided in paragraph (d) of FAR 52.229-10.

A.36 SUBCONTRACTORS LIABILITY W ITH RESPECT TO COST ACCOUNTING STANDARDS

The subcontractor shall be liable to the Government for increased cost or interest for failure to comply with the cost accounting standards clauses as may be applicable to this subcontract.

A.37 SUSPECT/COUNTERFEIT ITEMS

A. A suspect item is one in which there is an indication by visual inspection, testing, or other information that it may not conform to established Government or industry-accepted specifications or national consensus standards. A counterfeit item is a suspect item that is a copy or substitute without legal right or authority or one whose material, performance, or characteristics are knowingly misrepresented by the vendor, supplier, distributor, or manufacturer. Such items may be labeled to represent a different class of parts, or used and/or refurbished parts, complete with false labeling, that are represented as new parts.

B. Suspect/counterfeit items **do not include** non-conforming items resulting from inadequate design or production quality control. Such items shall be handled in accordance with NW P' nonconforming item procedures.

C. Materials and items furnished by the Subcontractor to NWP under this Agreement shall not include suspect/counterfeit parts nor shall such parts be used in performing any work under this Agreement whether on or off the WIPP site.

D. If suspect/counterfeit parts are furnished under this Agreement and are identified as such at the WIPP site, such items shall be impounded by NW P. The Subcontractor shall promptly replace with items acceptable to NW P and the Subcontractor shall be liable for all costs relating to impoundment, removal, and replacement. NWP may turn such items over to the U. S. Office of the Inspector General for investigation and reserves the right to withhold payment for the suspect items pending the results of the investigation.

E. The rights of NW P in this clause are in addition to any other rights provided by law or under this agreement.

A.38 SUPERINTENDENCE BY THE SUBCONTRACTOR - FAR 52.236-6 (APR 1984)

A.39 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT ALTERNATE 1 (SEP 1996) - FAR 52.249-2 (APR 2012)

A.40 UNCLASSIFIED CONTROLLED NUCLEARINFORMATION

Documents originated by the Subcontractor or furnished by the Government to the Subcontractor in connection with the Subcontract may contain unclassified controlled nuclear information as determined pursuant to Section 148 of the Atomic Energy Act of 1954, as amended. The Subcontractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations and directives, including 10 CFR 1017.

A.41 USE AND CHARGES as prescribed in 45.107(c) - FAR 52.245-9 (AUG 2010)

A.42 USE AND POSSESSION PRIOR TO COMPLETIONFAR 52.236-11 (APR 1984)

A.43 VARIATION IN QUANTITY

A variation in the quantity of any item called for by the Order will not be accepted unless the variation has been accepted in writing by NWP.

A.44 WARRANTY OF CONSTRUCTION - FAR 52.246-21 (MAR 1994)

A.45 DOE INDEPENDENT OVERSIGHT PROGRAM

The expectations in support of DOE Independent Oversight Program (DOE O 227.1) appraisal activities (i.e., assessment activities, reviews) conducted by the Office of Enterprise Assessment (EA) and Interface with the Defense Nuclear Facilities Safety Board (DNFSB) (DOE O 140.1), subcontractors are responsible for:

- Provide timely and adequate support to external oversight activity/request.
- Do not provide any DOE and/or contractor documentation to the DNFSB orits staff without prior DOE direction.
- Do not make commitments to or discuss potential actions related to DNFSB and/or DNFSB staff interactions, site reviews, etc., with the DNFSB or itsstaff.
- At the request of CBFO, comply with the personnel interview processesand procedures implemented by DNFSB representatives during a site visit.
- Request that interviews be scheduled at mutually convenient times when safety- related duties cannot be compromised.

THE FOLLOWING CLAUSES ARE APPLICABLE WHEN SELLER'S PERSONNEL WORK ON THE DOE WIPP SITE AND OTHER COVERED WORKPLACES/ACTIVITIES

A.46 ENVIRONMENTAL COMPLIANCE (Applies only to work performed on Government facilities)

A. Definitions.

As used in the Subcontract, the following capitalized terms shall have the meaning therein:

1. "Hazardous Waste" shall mean any waste or constituent regulated under the Resource Conservation and Recovery Act (RCRA) as amended (42 U.S.C. 6901 et seq.), or as set forth in 40 CFR 260, or in any similar laws of any state or local governmental authority having jurisdiction over the place(s) where (a) the work under the Subcontract willbe performed, or (b) any Hazardous Waste will be generated, shipped, stored, treated, or disposed of.

2. For this document, the term “Hazardous Substance” shall be used generically to include any “Hazardous Substance” as defined in the Comprehensive Environmental Response, Compensations and Liability Act (CERCLA) as amended (42 U.S.C. 9601 et seq.), any “Hazardous Material” as regulated under the Hazardous Materials Transportation Act as amended (49 U.S.C. 1801), or Occupational Safety and Health Act (OSHA) 29 CFR 1910 Subpart H, “Oil” as defined in or under the Clean Water Act as amended (33 U.S.C. 1251), any “Chemical or Toxic or Hazardous Substance or Material” as defined in the Toxic Substance Control Act (TSCA) (15 U.S.C. 2601), and, without limitation, any other substance or material identified as a toxic or hazardous substance, chemical, or material, as such terms may be defined in or under any other applicable local, state, or federal law, statute, ordinance, code, rule, or regulation. The term “Hazardous Substance” shall also include any container, device, material, component, and/or item, of which a Hazardous Substance as defined above is a constituent, or in which a Hazardous Substance as defined above is contained.

3. “Environmental Procedure” shall mean a document or series of documents published by NW P and incorporated into the Order by reference, which set forth and establishes the policy(ies) for compliance with environmental laws and regulations by Subcontractors and suppliers to NW P, including lower-tier Subcontractors and suppliers at any tier.

4. A “Preexisting Hazardous Substance” shall mean a Hazardous Substance(s) and/or Hazardous Waste that is/are already present at a WIPP facility through no act or omission of the Subcontractor or its representatives.

B. Environmental Compliance.

In addition to and without limitation on the general duty of the Subcontractor, the Subcontractor shall comply with all applicable laws and regulations as indicated below:

1. The Subcontractor and all of its lower-tier Subcontractors and suppliers of any tier, including the employees and/or agents of each (hereinafter called “representatives”) shall comply with all health, safety, and environmental laws, statutes, ordinances, rules, regulations, permits, and orders regulating or dealing with a Hazardous Substance(s) or Hazardous Waste(s) that is/are or become(s) applicable during the term of the Order.

2. During the term of the Order, the Subcontractor shall obtain and maintain all permits, licenses, certificates, approvals, and other authorities required to conduct the work and perform the services specified under the Order.

3. Without limiting the applicability of the foregoing subparagraph B.1 and B.2, the Subcontractor shall comply with any appropriate provisions of applicable environmental procedures with respect to work or services that will be performed, or equipment or materials that will be supplied under the Order.

C. *Management of Hazardous Substances and Hazardous Waste.*

1. The Subcontractor shall notify NW P immediately, if and when it encounters a pre-existing Hazardous Substance(s) or pre-existing Hazardous Waste(s) in the performance of the work. Such notice shall identify the location and time of the encounter, and shall specify,to the extent known or suspected by the Subcontractor or its representatives, the nature and extent of the contamination. The Subcontractor shall take no action with respect to such pre-existing Hazardous Substance(s) or Waste(s) without the written consent of NW P. The foregoing shall not apply (a) to a pre-existing Hazardous Substance(s) or Waste(s) identified in the Order or as otherwise formally identified by NW P to be encountered in the performance of the work, or (b) if the Order calls for the remediation or removal of the pre- existing Hazardous Substance(s) or Waste(s) or areas contaminated therewith, in either of which events the Subcontractor shall be finally responsible for the proper and safe handling and management of the pre-existing Hazardous Substance(s) or Waste(s). The Subcontractor and its representatives shall cooperate with NW P or its designee regarding such pre-existing Hazardous Substance(s) or Waste(s) and make available its records and personnel with respect thereto.

2. Under no event shall the Subcontractor or any of its representatives bring or allow the bringing of Hazardous Materials, Substances, or Waste on or into the work site unless specifically allowed by the Order or otherwise formally approved by NW P. In the event that the Subcontractor or any of its representatives introduce or allow a Hazardous Substance(s) or Hazardous Waste to be introduced on or into the site, generate any Hazardous Waste(s), or handle a pre-existing Hazardous Substance(s) or areas contaminated therewith as part of its obligations under the Order, at the work site or in connection with the work or services, the Subcontractor shall be solely responsible for all costs and liabilities associated with such Hazardous Substance(s) or Hazardous Waste and shall handle, manage, store, treat, or dispose of such Hazardous Substance(s) or Hazardous Waste in strict compliance with all applicable laws, statutes, ordinances, rules, regulations, permits, orders, and environmental procedures. Without limiting the generality of the foregoing, the Subcontractor shall (a) provide a Material Safety Data Sheet (MSDS) for each Hazardous Substance, (b) perform and maintain all required record keeping, reporting, manifesting, labeling, and other documentation, (c) provide all required safety and health devices or equipment and training, and (d) ensure that all such Hazardous Substance(s) or Hazardous Waste is managed, transported, treated, stored, or disposed of at lawfully permitted or licensed facilities in accordance with all applicable laws, regulations, and ordinances.

3. The provisions of this article relating to Hazardous Substances shall not apply to such material or substances wholly and routinely contained within equipment or materials utilized by the Subcontractor in the performance of the work, provided that there is no leak, spill, discharge, or release of the Hazardous Substance (e.g., sulfuric acid in batteries).

D. *Liability.*

The Subcontractor shall assume and indemnify NW P against any and all costs, damages, expenses, and liability due to any personal injury, death, property damage, environmental harm, environmental impairment, fines, penalties, or otherwise, arising or resulting from:

1. The failure of the Subcontractor or any of its representatives to comply with the provisions of this article.

2. The receipt, handling, transportation, treatment, storage, or disposal of a Hazardous Substance(s) or Hazardous Waste where it is the responsibility of the Subcontractor or its representatives as included under the Order or applicable law.

3. The negligent or intentionally tortious conduct of the Subcontractor or its representatives regarding or in connection with a Hazardous Substance(s) or Hazardous Waste.

A.47 ENVIRONMENT, SAFETY, AND HEALTH – GOVERNMENT OWNED OR LEASED

In performing work under this Subcontract, the Subcontractor shall comply with the requirements of applicable Federal, State, and local laws and regulations (including DOE regulations), unless relief has been granted in writing by the appropriate regulatory agency. This requirement applies to all lower-tier Subcontractors.

E. For the purpose of this Article:

1. Safety encompasses Environment, Safety and Health, including pollution prevention and waste minimization; and

2. Employees include Subcontractor and lower-tier Subcontractor employees.

F. In performing work under this Subcontract, the Subcontractor shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The Subcontractor shall exercise a degree of care commensurate with the work and the associated hazards. The Subcontractor shall ensure that management of Environment, Safety and Health (ES&H) functions and activities becomes an integral, but visible part of the Subcontractor's work planning and

1. Management is responsible for the protection of employees, the public, and the environment. Line management includes those Subcontractor and lower-tier Subcontractor employees managing or supervising employees performing work.

2. Clear and unambiguous lines of authority and responsibility for ensuring ES&H are established and maintained at all organizational levels.

3. Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.

4. Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority whenever activities are planned and performed.

5. Before work is performed, the associated hazards are evaluated and an agreed-upon set of ES&H standards and requirements are established which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.

6. Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis should be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.

7. The conditions and requirements to be satisfied for operations to be initiated and conducted are established and agreed-upon by NW P and the Subcontractor. These agreed-upon conditions and requirements of the Subcontract are binding upon the Subcontractor. The extent of documentation and level of authority for agreement shall be established in a Safety Management System (System). A Safety Management Plan is required only when so specified in the Statement of Work on the Subcontract.

G. The Subcontractor shall manage and perform work in accordance with a documented System that fulfills all conditions in paragraph (B) of this Article at a minimum. Documentation of the System shall describe how the Subcontractor will:

1. Define the Work Scope;

2. Identify and analyze hazards associated with the work;

3. Develop and implement hazard controls;

4. Perform work within controls; and

5. Provide feedback on adequacy of controls and continue to improve safety management.

When such a System as described in this paragraph is required by the Subcontract, the provisions for Records as found in DEAR 970.5204-79 also applies.

H. The System shall describe how the Subcontractor will establish, document, and implement safety performance objectives, performance measures, and commitments in response to Subcontract requirements and funding limits while maintaining the integrity of the System. The System shall also describe how the Subcontractor will measure system effectiveness.

I. The Subcontractor shall submit to the Buyer documentation of its System for review and acceptance. Dates for submittal, discussions, and revisions to the system will be established by the Buyer. Guidance on the preparation, content, review, and acceptance of the System will be provided by the Buyer. On an annual basis, the Subcontractor shall review and update, for NWP acceptance, its safety performance objectives, performance measures, and commitments consistent with, and in response to, Subcontract requirements, funding limits and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire System. Accordingly, the System shall be integrated with the Subcontractor's business processes for work planning, budgeting, authorization, execution, and change control.

J. The Subcontractor shall comply with, and assist NW P in complying with ES&H requirements of all applicable laws and regulations and applicable directives identified in the Article of this Subcontract on Laws, Regulations, and DOE Directives. The Subcontractor shall cooperate with Federal and non-Federal agencies having jurisdiction over ES&H matters under this Subcontract.

K. The Subcontractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements and the System. If the Subcontractor fails to provide resolution or, if at any time, the Subcontractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the Buyer may issue an order stopping work in whole or in part. Any stop work order issued by the Buyer under this Article (or issued by the Subcontractor to a lower-tier Subcontractor in accordance with paragraph (I) of this Article shall be without prejudice to any other legal or contractual rights of NW P. In the event that the Buyer issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the Buyer. The Subcontractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this article.

L. The Subcontractor is responsible for compliance with the ES&H requirements applicable to this subcontract regardless of the performer of the work.

M. The Subcontractor shall include language substantially the same as this Article in lower-tier subcontracts involving complex or hazardous work on the WIPP or other DOE-owned or leased facilities. Such lower-tier subcontracts shall provide for the right to stop work under the conditions described in paragraph (G) of this Article. Depending on the complexity and hazards associated with the work, the Subcontractor may require that the lower-tier Subcontractors submit a Safety Management System for the Subcontractor's review and acceptance.

A.48 PERMITS AND RESPONSIBILITIES - FAR 52.236-7 (NOV 1991)

A.49 SITE INVESTIGATION AND CONDITIONS AFFECTING THE W ORK - FAR 52.236-3 (APR 1984)

A.50 SITE ACCESS AND SECURITY REQUIREMENTS

N. Foreign Nationals:

Access or entry by a foreign national (not a citizen of the United States) to the WIPP Site, DOE Skeen-Whitlock Building (SW B) or any other Government owned or leased building is not allowed without first being approved by CBFO Security and the CBFO Manager. All unclassified visits (30 days or less) and assignments (more than 30 days) of foreign nationals will be managed consistent with the Department of Energy Notice and Policy 142.1.

A minimum of 45 days advance notice is required for indices checks of all foreign nationals that are citizens of a sensitive country, require access to a security area, or access to a sensitive subject. A Security Plan is required for unclassified foreign visits and assignments. Contact WIPP Security for required forms and guidelines. At a minimum, the following information must be provided:

- Biographical and personal information, including date and place of birth, place/nature of employment.
- Passport, visa and/or PRA Card (Immigration and Naturalization Service information, as required).
- Purpose of visit; actual dates, subjects and areas to be visited.
- Identification of host group and escort responsibilities. (The host will be required to prepare and process all forms and provide the Security Plan and the Host Report).
- For delivery activities, the WIPP Site main Warehouse will act as the host group and Warehouse personnel will escort the foreign national(s). The Buyer will notify the supplier once the indices check and approvals have been completed.

O. Operating Condition of Delivery Vehicles and Equipment:

Delivery vehicles and equipment entering the WIPP Site, or the SWB or any other Government owned or leased facility must be in a safe operating condition. Vehicles and equipment must have no leaks, dripping fluids, or any other defects that pose a hazard to personnel and/or the environment. Defective vehicles will not be allowed to enter the WIPP Site or the SW B receiving areas and must be repaired before access is granted.

P. Property Searches:

WIPP Security Officers will inspect all vehicles entering and leaving the WIPP Site. Upon entering the WIPP Site, searches are conducted to prevent bringing the following items onto the site:

- Weapons
- Ammunition
- Explosives
- Illegal drugs
- Alcohol
- Other dangerous instruments or material that could harm or damage people, property or the environment
- Animal companions

Upon leaving the WIPP Site and the SW B, searches may be conducted to prevent the unauthorized removal of government property.

Q. Security Badges and GFE/GFPProperty:

Subcontractors are responsible for all WIPP issued security badges and entry key cards for all of their employees who have access to the WIPP Site, SW B or other Government owned or leased facilities. The Subcontractor will provide to NWP, a

listing of all employees who will need access to the WIPP Site or other satellite facilities. This listing will be provided to and approved by the NWP Buyer who will present the listing to WIPP Security prior to Subcontractor employees gaining access to the WIPP site. The listing will contain the Subcontractor's company name, name of the employee(s), and the NWP Subcontract Technical Representative name. WIPP Security reserves the right to collect picture badges on a daily basis from those Subcontractors that demonstrate inability to adequately control their security badge(s).

Prior to final payment, any and all security badges, Government Furnished Equipment or Government Furnished Property must be returned and accounted for. NW P reserves the right to withhold final payment pending adequate disposition of security badges and property.

The Subcontractor will immediately report, within 24 hours, to WIPP Security any lost or misplaced security badge or key card. The security badges and the key cards are the property of the U.S. Department of Energy. Subcontractor personnel will maintain and display their badges in accordance with WIPP policies and procedures.

R. WIPP Site Access Requirements:

30 days or less for Subcontractor Employees: Subcontractor personnel who are required to work on WIPP Property for 30 days or less unescorted will be required to complete GET-300. GET- 300 consists of completing a video presentation followed by an examination administered by the Security Department. Upon successful completion of the examination, the Subcontractor employee will be issued a contractor badge and will be allowed to access the WIPP site unescorted during normal work hours for a period of 30 days. To obtain the badge each day, the Subcontractor employee will show Security picture identification and then pick up their badge at the main Guard & Security Building. The Subcontractor employee will be required to turn in his/her badge at the gatehouse each day upon leaving the site. Completion of this training does not allow the Subcontractor personnel access to the SW B unescorted.

30 days or more: Subcontractor personnel who are required to work on WIPP Property for 30 days or more must complete the GET Initial Training within 30 days of being assigned to the WIPP. GET training consists of a two day instruction program, with an examination being given at the end of the session. Upon successful completion of the examination, the Subcontractor employee will be issued a contractor picture badge good for a period of one year. Upon completion of the assignment, the Subcontractor personnel will surrender their badge to security.

S. Skeen- Whitlock Building Access Requirements:

30 days or less for Subcontractor Employees: Subcontractor personnel who are required to work at the SW B for 30 days or less unescorted will be required to complete GET-301. GET- 301 consists of reading the safety brochure and watching the SW B safety orientation video followed by an examination administered by the SW B Receptionist. Upon successful completion of the examination, the Subcontractor employee will be issued a "T" badge and will be allowed to access the SW B unescorted during normal work hours for a period of 30 days. Upon completion of the assignment, the Subcontractor employee will surrender their badge to security. Completion of this training does not allow Subcontractor personnel access to the WIPP site unescorted.

30 Days or more: Same requirements as noted above for WIPP Site Access.

A.51 WORK ON GOVERNMENT PREMISES – SUBCONTRACTOR'S RESPONSIBILITY

T. As to the work to be done or performed by the Subcontractor on premises owned or controlled by NW P, the Government, or the premises of other NW P subcontractors, the Subcontractor assumes the entire responsibility and liability for losses, expenses, damages, demands, and claims in connection with or arising out of any injury (including death) or damage to property sustained in connection with, or to have arisen out of the acts or omissions of, the Subcontractor or its lower-tier subcontractors, agents, or employees. The Subcontractor shall indemnify and hold harmless NW P from and against any and all claims, demands, actions, causes of action, suits, damages, expenses (including attorney fees) and liabilities whatsoever resulting from or arising in any manner on account of or by reason of any injury to or death of any person or any damage to or loss of property attributable to the acts or omissions of the Subcontractor or its lower-tier subcontractors, agents, or employees. Nothing in the foregoing shall be construed to require the Subcontractor to indemnify and save harmless NWP from any liability arising out of or resulting from a nuclear incident.

U. Unless otherwise specified in the Subcontract, Subcontractor agrees that it shall obtain and maintain during the performance of any Work at the Facility Site and until the acceptance thereof, the insurance described below and shall be carried with insurance companies with at least a Best's "A" rating. Subcontractor will furnish to Contractor three (3) copies of the certificate(s) evidencing such insurance prior to commencing performance or physically present on the Facility site under the Subcontract.

1. Worker's Compensation Insurance and Employer's Liability Insurance (including occupational disease) to cover statutory benefits and limits of the Worker's Compensation laws of any applicable jurisdiction in which the Work is to be performed hereunder, and Employers' Liability Insurance with limits of five hundred thousand dollars ($500,000) for trauma, each accident; five hundred thousand dollars ($500,000) for disease, each person and five hundred thousand dollars ($500,000) disease, policy limit.

2. Commercial General Liability Insurance written on the latest ISO occurrence form and including coverage for Contractual Liability and Products and Completed Operations (to remain in force for two (2) years following acceptance of the Work. The insurance required by this subparagraph 2 shall have the following limits of liability:

    a) Third Party Bodily Injury and Property Damage Liability: $1,000,000 combined single limit per occurrence and $2,000,000 combined single limit general aggregate, with such limits available to the Project.

3. Business Automobile Liability insurance covering all owned, leased and non-owned vehicles used in connection with the Work, with not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

4. If professional services are involved, Professional Liability Insurance with not less than $1,000,000 per occurrence with a 24 months discovery period after completion of the work.

V. The following endorsements shall be included in the above insurance coverages:

1. Thirty (30) days advance written notice in the event of cancellation, non-renewal or material change of any policy. Language referring to “endeavor to” and “but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives” shall be stricken from the certificate of insurance.

2. Contractor and Owner named as additional insureds (except on workers’ compensation and professional liability). The additional insured endorsement used shall in no event be less restrictive in terms of coverage provided to the additional insured than what is provide for in the standard ISO endorsement No. CG 20 10 11 85, "Additional Insured - Owners, Lessees, or Contractors (Form B.)"

3. A waiver of subrogation in favor of Contractor and Owner.
4. Severability of Interest or Separation of insureds

5. Subcontractor’s insurance is primary and any insurance maintained by Contractor is considered excess and non-contributory.

W. Subcontractor shall insert the substance of this Article in lower tier subcontracts under the Subcontract that require work at the facility site and shall require lower-tier subcontractors to provide and maintain the insurance required in this Article or elsewhere in the subcontract.

X. The Subcontractor agrees to comply (and require its lower-tier subcontractors to comply) with all applicable laws, rules, and regulations with respect to state industrial insurance or worker's/workmen's compensation, occupational disease, occupational safety and health, or withholding and payment of social security and federal income taxes, and further agrees to indemnify NW P and the Government against, and to save and hold harmless NW P and the Government from, any and all liability and expense with respect to claims against NW P or the Government which may result from the failure or alleged failure of the Subcontractor or of any of its lower-tier subcontractors to comply there with.

A.52 WORKER SAFETY AND HEALTH PLAN

The Department of Energy has promulgated procedures/rules for the implementation of a Worker Safety and Health Program, Title 10 CFR 851 (“851”). NW P has integrated 851 as NWP’ Worker Safety and Health Plan along with the Integrated Safety Management System (ISMS) description, and NWP’ Voluntary Protection Program (VPP). Together, those documents serve as the overall plan for worker safety and health at WIPP. These rules govern the conduct of any entity, including affiliated entities, such as a parent corporation, under contract with DOE, or a Subcontractor at any tier, that has responsibilities for performing work at a covered DOE site in furtherance of a DOE mission. Violation of the applicable rules provides a basis for the assessment of civil and or criminal penalties under 851.

Indemnification of NWP

To the extent permitted by law, the Subcontractor assumes full responsibility and shall indemnify, save harmless, and defend NWP, its principal Subcontractors, and agents, officers, employees and directors from any civil and or criminal penalties or liabilities under 851 arising out of activities of the Subcontractor, its lower-tier Subcontractors, suppliers, agents, employees, officers, or directors.
The Subcontractor's obligation to indemnity and hold harmless shall expressly include attorney's fees and other reasonable costs of defending any action or proceeding instituted under 851 or its implementing regulations.

A copy of 851, NWP' implementing Worker Safety and Health Plan, and *The General Safety Rules for Contractors and their Subcontractors* is available at our web site: http://www.wipp.energy.gov/proc/html/business.htm.

SECTION B, GOVERNMENT FLOWDOWN CLAUSES INCORPORATED BY REFERENCE

(Applicable at the dollar thresholds indicated in the Tables or as noted in the Instructions)

SUPPLEMENTAL DEFINITIONS FOR FAR AND DEAR CLAUSES INCORPORATED BY REFERENCE A.

A. This Subcontract incorporates FAR and DEAR Clauses below by reference, with the same force and effect as if they were given in full text. FAR clauses may be accessed electronically at https://www.acquisition.gov/far/. DEAR clauses can be found at http://www.management.energy.gov/DEAR.htm. Upon request, NWP will make their full text available. Supplemental definitions that apply to certain terms in these clauses are included in the following paragraphs.

B. "Contract" means this Subcontract or Purchase Order (except in instances when it is not applicable or appropriate), and includes changes and modifications to this Subcontract.

C. "CONTRACTOR" means the party to whom this Subcontract or Purchase Order is awarded (except in instances when it is not applicable or appropriate).

D. "Government" means NWP. except that the term "Government" or its authorized representatives shall retain its original meaning where (1) the provision pertains to, addresses or governs rights and obligations in property (real, personal or intellectual), (2) a right, act, authorization or obligation can be granted or performed only by the Government (e.g., under the Nuclear Hazards Indemnity Agreement provision), (3) the intent of the provision is to provide benefit or protection to the Government, or (4) when access to the SUBCONTRACTOR'S proprietary financial or other data is required.

E. "Contracting Officer" means the NWP's Procurement Representative.

F. "Lower-Tier Subcontractor" means any party entering into an agreement with the SUBCONTRACTOR or any Lower Tier SUBCONTRACTOR for the furnishing of supplies or services required for performance of this Subcontract.

The following clauses are applicable to <u>all Subcontracts:</u>

CLAUSE	TITLE	INSTRUCTION
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	
FAR 52.204-9	Personal Identity Verification of Contractor Personnel (SEP 2007)	
FAR 52.219-8	Utilization of Small Business Concerns (JAN 2011)	
FAR 52.222-1	Notice to the Government of Labor Disputes (FEB 1997)	
FAR 52.222-3	Convict Labor (JUN 2003)	
FAR 52.222-4	Contract W ork Hours and Safety Standards Act-Overtime Compensation (JUL 2005)	
FAR 52.222-50	Combating Trafficking in Persons (FEB 2009)	
FAR 52.222-90	Addressing DEI Discrimination by Federal Contractors	
FAR 52.223-18	Contractor Policy to Ban Text Messaging While Driving (SEP 2010)	
FAR 52.225-13	Restrictions on Certain Foreign Purchases (JUN 2008)	
FAR 52.237-3	Continuity of Services (JAN 1991)	
FAR 52.242-13	Bankruptcy (JUL 1995)	
FAR 52.242-15	Stop Work Order (AUG 1989)	
FAR 52.244-6	Subcontracts for Commercial Items (DEC 2010)	
FAR 52.247-64	Preference for Privately-Owned U.S. Flag Commercial Vessels (FEB 2006)	
DEAR 952.203-70	Whistleblower Protection for Contractor Employees (DEC 2000)	
DEAR 952.204-71	Sensitive Foreign Nations Controls (APR 1994)	See Attachment 1. Copy will be provided upon request
DEAR 952.227-82	Rights to Proposal Data (APR 1994)	
DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (JUN 1996)	The obligation of NW P to indemnify the Subcontractor or lower-tier Subcontractor is subject only to that indemnification provided to NW P under DEAR 952.250-70
DEAR 970.5204-2	Laws, Regulations, and DOE Directives (DEC 2000)	
DEAR 970.5223-1	Integration of Environment, Safety, and Health into Work Planning and Execution (DEC 2000)	

The following clauses are applicable to <u>Subcontracts that exceed $2,000:</u>

CLAUSE	TITLE	INSTRUCTION
FAR 52.222-5	Davis-Bacon Act—Secondary Site of The Work (JUL 2005)	
FAR 52.222-6	Davis-Bacon Act (JUL 2005)	
FAR 52.222-7	Withholding of Funds (FEB 1988)	
FAR 52.222-8	Payrolls and Basic Records (JUN 2010)	
FAR 52.222-9	Apprentices and Trainees (JUL 2005)	
FAR 52.222-10	Compliance with Copeland Act Requirements (FEB 1988)	
FAR 52.222-11	Subcontracts (Labor Standards) (JUL 2005)	
FAR 52.222-12	Contract Termination-Debarment (FEB 1988)	
FAR 52.222-13	Compliance with Davis-Bacon and Related Act Regulations (FEB 1988)	
FAR 52.222-14	Disputes Concerning Labor Standards (FEB 1988)	
FAR 52.222-15	Certification of Eligibility (FEB 1988)	
FAR 52.222-62	Paid Sick Leave Under Executive Order 13706	

The following clause is applicable to Subcontracts that exceed $3,000:

CLAUSE	TITLE	INSTRUCTION
52.222-54	Employment Eligibility Verification (JAN 2009)	

The following clauses are applicable to Subcontracts that exceed $10,000:

CLAUSE	TITLE	INSTRUCTION
FAR 52.222-21	Prohibition of Segregated Facilities (FEB 1999)	
FAR 52.222-26	Equal Opportunity (SEP 2010)	
FAR 52.222-27	Affirmative Action Requirements for Construction (FEB 1999)	
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)	

The following clause is applicable to Subcontracts that exceed $15,000:

CLAUSE	TITLE	INSTRUCTION
FAR 52.222-36	Affirmative Action for Workers With Disabilities (OCT 2010)	

The following clauses are applicable to Subcontracts that exceed $100,000:

CLAUSE	TITLE	INSTRUCTION
FAR 52.203-7	Anti-Kickback Procedures (OCT 2010)	
FAR 52.222-35	Equal Opportunity for Veterans (SEP 2010)	
FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2010)	
FAR 52.223-14	Toxic Chemical Release Reporting (AUG 2003)	
FAR 52.227-1	Authorization and Consent (DEC 2007)	
FAR 52.232-17	Interest (OCT 2010)	Applies with the addition of a paragraph (h) to read as follows: "(h) No interest is payable to the Subcontractor for any claim or voucher the Subcontractor may submit for payment except as specifically imposed by a Court on any judgment obtained by the Subcontractor or as otherwise provided herein."
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 2002)	

The following clauses are applicable to Subcontracts that exceed$150,000:

CLAUSE	TITLE	INSTRUCTION
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (SEP 2006)	
FAR 52.203-12	Limitation on Payments to influence Certain Federal Transactions (OCT 2010)	
FAR 52.215-2	Audit and Records Negotiation (OCT 2010)	
FAR 52.227-3	Patent Indemnity (APR 1984)	
FAR 52.236-15	Schedules for Construction Contracts (APR 1984)	Applicable if W ork Performance Exceeds 60 days
FAR 52.248-3	Value Engineering - Construction	

The following clauses are applicable to Subcontracts that exceed$500,000:

CLAUSE	TITLE	INSTRUCTION
DEAR 952.226-74	Displaced Employee Hiring Preference (JUN 1997)	
DEAR 970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Reorganization Act for the Fiscal Year 1993 (DEC 2000)	

The following clauses are applicable to Subcontracts that exceed$750,000:

CLAUSE	TITLE	INSTRUCTION
FAR 52.230-2	Cost Accounting Standards (OCT 2010)	This clause is applicable unless an exemption applies under 48 CFR 9903.201-1.
FAR 52.230-3	Disclosure and consistency of Cost Accounting Standards (OCT 2008)	This clause is applicable to subcontracts where modified coverage has been determined to be applicable to the subcontractor, unless an exemption applies under 48 CFR 9903.201-1.
FAR 52.230-6	Administration of Cost Accounting Standards (JUN 2010)	This clause is applicable if either of the CAS clauses at FAR 52.230-2 or 52.230-3 above applies

The following clause is applicable to Subcontracts that exceed $1,500,000:

CLAUSE	TITLE	INSTRUCTION
FAR 52.219-9	Small Business Subcontracting Plan (JUL 2011)	This clause does not apply to small business concerns

The following clauses are applicable to certain Subcontracts as noted:

CLAUSE	TITLE	INSTRUCTION
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (APR 2010)	This clause applies if the value of this subcontract exceeds $5 million, and the performance period exceeds 120 days)
FAR 52.203-14	Display of Hotline Poster(s) (DEC 2007)	Clause applies if Subcontract value is in excess of $5 million, except when the Order is performed entirely outside the United States.
FAR 52.215-10	Price Reduction for Defective Certified Cost or Pricing Data (OCT 2010)	This clause applies if the Subcontract amount is expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later, unless a 15.403-1 exception applies.

FAR 52.215-11	Price Reduction for Defective Certified Cost or Pricing Data - Modifications (Aug 2011)	This clause applies for any modification to this Subcontract involving a price adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award whichever is later, unless a 15.403-1 exception applies.
FAR 52.215-15	Pension Adjustments and Asset Reversions (OCT 2010)	This clause applies if the Subcontract meets the applicability requirements of FAR 15.408-8(g).
FAR 52.215-18	Reversion of Adjustment of Plans for Post Retirement Benefits(PRB) Other than Pensions (JUL 2005)	This clause applies if the Subcontract meets the applicability requirements of FAR 15.408-8(j).
FAR 52.215-19	Notification of Ownership Changes (OCT 1997)	This clause applies if the Subcontract meets the applicability requirements of FAR 15.408-8(k).
FAR 52.225-8	Duty-Free Entry (OCT 2010)	Clause applies if foreign supplies valued in excess of $15,000 may be imported into the United States and for which duty free entry may be obtained.
FAR 52.227-14	Rights in Data – General (JUN 1987) – as modified pursuant to DEAR 927.409(a) (1)	This clause is applicable to subcontracts in which technical data or computer software is expected to be produced, or in subcontracts for supplies that contain a requirement for production or delivery of data.
FAR 52.227-16	Additional Data Requirements (JUN 1987)	This clause applies if the Subcontract Scope of Work meets the applicability requirements of DEAR 927-409(h)
FAR 52.245-1	Government Property (AUG 2010)	This clause applies to subcontracts where Government property will be furnished to the SUBCONTRACTOR for use in the performance of the subcontract.
FAR 52.247-63	Preference for U.S. Flag Air Carriers (JUN 2003)	This clause applies to subcontracts that may involve international air transportation.
DEAR 952.204-2	Security (AUG 2009)	This clause applies to any subcontract where SUBCONTRACTOR employees are required to possess access authorizations (L or Q security clearances).
DEAR 952.204-70	Classification/Declassification (SEP 1997)	This clause applies to any subcontract where SUBCONTRACTOR employees are required to possess access authorizations (L or Q security clearances).

DEAR 952.204-73	Facility Clearance (MAY 2002)	This clause applies to any subcontract where subcontractor employees are required to possess access authorizations (L or Q security clearances).
DEAR 952.204-77	Computer Security (AUG 2006)	Clause applies to any subcontract that may provide access to computers owned, leased or operated on behalf of the DOE.
DEAR 952.247-70	Foreign Travel (JUN 2010)	This clause applies to any subcontract that may involve foreign travel.
DEAR 970.5204-1	Counterintelligence (DEC 2000)	This clause applies to any subcontract where SUBCONTRACTOR employees are required to possess access authorizations (L or Q security clearances).
DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (DEC 2000)	This clause is applicable if subcontract amount exceeds $25,000 and the scope of work involves access to classified information or special nuclear materials; transportation of hazardous materials to or from a DOE site; or a high risk of danger to life, the environment, public health and safety, or national security.
DEAR 970.5227-8	Refund of Royalties (AUG 2002)	This clause applies to any subcontract that involves the payment of royalties in excess of $250.

SECTION C
APPLIES IF SPECIFICALLY REFERENCED OR SET FORTH IN THE PURCHASE ORDER EXCEPT AS INDICATED HEREIN

C.1 DAVIS-BACON ACT - PRICE ADJUSTMENT (NONE OR SEPARATELY SPECIFIED METHOD)- FAR 52.222.30 (DEC 2001)

Applicable to Indefinite Delivery/Indefinite Quantity subcontracts that contain options to extend the term of the subcontract and this article is invoked by the Contractor.

C.2 DAVIS-BACON ACT - PRICE ADJUSTMENT (PERCENTAGE METHOD) - FAR52.222.31 (DEC 2001)

Applicable to Indefinite Delivery/Indefinite Quantity subcontracts that contain options to extend the term of the subcontract and this article is invoked by the Contractor.

C.3 DAVIS-BACON ACT—PRICE ADJUSTMENT (ACTUAL METHOD) - FAR 52.222.32 (DEC 2001)

Applicable to Indefinite Delivery/Indefinite Quantity subcontracts that contain options to extend the term of the subcontract and this article is invoked by the Contractor.

C.4 DEFENSE NUCLEAR FACILITIES SAFETY BOARD

The Subcontractor shall conduct activities in accordance with those DOE commitments to the Defense Nuclear Facilities Safety Board (DNFSB) which are contained in implementation plans and other DOE correspondence to the DNFSB. The Subcontractor shall support preparation of DOE responses to DNFSB issues and recommendations which affect or can affect subcontract work.
Based on the Buyer's direction, the Subcontractor shall fully cooperate with the DNFSB and provide access to such work areas, personnel, and information as necessary. The Subcontractor shall maintain a document process consistent with the DOE manual on interface with the DNSFB. The Subcontractor shall be accountable for ensuring that lower tier Subcontractors adhere to these requirements.

C.5 IDENTIFICATION OF PROPOSED GOVERNMENT FURNISHED EQUIPMENT

The proposal shall contain a list identifying any equipment the Subcontractor proposes to purchase for use in performance of a resulting subcontract for which the Subcontractor will be financially reimbursed under the total cost or price of the subcontract. Such procurements will become Government Furnished Equipment (GFE) and shall be clearly itemized; GFE tagged, inventoried, stored, maintained, and disposed of in accordance with the proposed subcontract's general provisions article titled "Government Property." This clause does not apply to operating supplies or materials to be consumed in the performance of the service or incorporated into specific deliverable item required by the statement of work.

C.6 PERFORMANCE OF W ORK AT DOE FACILITIES AND SITES AND FACILITES OTHER THAN WIPP

The Subcontractor shall comply with and follow the list of Applicable Orders and Directives set forth in Section 3.0, Applicable Documents, of the Statements of Work.

C.7 PERFORMANCE OF W ORK BY THE CONTRACTOR - FAR 52.236-1 (APR 1984)

Shall apply if Order exceeds $1,500,000. The Subcontractor shall perform at least 12% of the work (see FAR 36.501 (a)) unless a different value is required by law, agency regulation or the Buyer.

C.8 PHYSICAL DATA - FAR 52.236-4 (APR 1984)

C.9 RIGHTS IN DATA-GENERAL (INCLUDING) - FAR 52.227-14 ALTERNATE II, Modified to include “Definitions” at DEAR 927.409(a)

C.10 RIGHTS IN DATA-GENERAL (INCLUDING) - FAR 52.227-14 ALTERNATE III, Modified to include “Definitions” at DEAR 927.409(a)

C.11 RIGHTS IN DATA-GENERAL (INCLUDING) - FAR 52.227-14 ALTERNATE V, Modified to include “Definitions” at DEAR 927.409(a)