

**TC-00052 REVISION 0 EFFECTIVE 10/09/2023  
SAVANNAH RIVER NUCLEAR SOLUTIONS**

**EXHIBIT “B”  
SPECIAL PROVISIONS FOR CONSTRUCTION  
COST REIMBURSEMENT SUBCONTRACTS**

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## SP-1 DEFINITIONS

- A. "Contractor" and "Company" means Savannah River Nuclear Solutions, LLC and all of its authorized representatives acting in their professional capacities.
- B. "Government" means the United State Department of Energy (DOE) and all of its authorized representatives acting in their professional capacities.
- C. "Mechanical Completion" shall mean when construction is sufficiently complete, in accordance with the Subcontract Documents, so Contractor or the Government can occupy or utilize the work, or designated portions for the use for which it is intended. The warranty period for all equipment and materials starts at Mechanical Completion.
- D. "Notice to Proceed" means the written notice given by Contractor to Subcontractor authorizing the start of on-site performance.
- E. "Physical Completion" means completion of all work in accordance with the Subcontract Documents.
- F. Subcontractor means the company, corporation, partnership, individual or other entity to which this Subcontract is issued, its authorized Subcontractor representatives, successors and permitted assigns.
- G. "Subcontract" and "Subcontract Documents" mean the Subcontract Agreement Form and all documents listed therein.
- H. "Subcontract Schedule" means the time period set forth for performance of the work under this Subcontract.
- I. "Work" means all activities required by the Subcontract Documents to be performed by Subcontractor.

## SP-2 INSURANCE

Unless otherwise specified in this Subcontract, Subcontractor shall, at its sole expense, maintain in effect at all times during the performance of the work insurance coverage with limits not less than those set forth below with insurers and under forms of policies satisfactory to Contractor. Subcontractor shall deliver to Contractor no later than ten (10) calendar days after Subcontract award, but in any event prior to commencing the work or entering the jobsite, certificates of insurance as evidence of policies providing such coverage and limits of insurance are in full force and effect. Certificates shall be issued in the form provided by Contractor or if none is provided in a form acceptable to Contractor and provide not less than thirty (30) calendar days advance written notice will be given to Contractor prior to cancellation, termination, or material alteration of said policies of insurance. Certificates shall identify on their face the Company Site.

### A. Standard Coverage:

- 1. Worker's Compensation as required by any applicable law or regulation.  
If there is an exposure of injury to Subcontractor's employees under the US Longshoremen's and Harbor Worker's Compensation Act, the Jones Act or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.
- 2. Employer's Liability of not less than \$1,000,000 each accident.
- 3. General Liability Insurance
  - a. Coverage  
Subcontractor shall carry Commercial General Liability Insurance covering all operations by or on behalf of Subcontractor, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for:
    - (1) Premises and Operations;
    - (2) Products and Completed Operations;
    - (3) Contractual Liability ensuring the obligations assumed by Contractor in this Subcontract;
    - (4) Broad form Property Damage (including Completed Operations);
    - (5) Explosion, Collapse, and Underground Hazards; and
    - (6) Personal Injury LiabilityThe Commercial General Liability insurance shall be the Occurrence Coverage Form.
  - b. Policy Limits  
For Subcontractor's Commercial General Liability Insurance, the limits of liability for bodily injury,

property damage, and personal injury shall be not less than:

- \$1,000,000 Combined single limit for Bodily Injury and Property Damage each occurrence;
- \$1,000,000 Personal Injury Limit each occurrence;
- \$2,000,000 Products-Completed Operations Annual Aggregate Limit; and
- \$2,000,000 General Annual Aggregate Limit (other than Products-Completed Operations).

If the policy does not have an endorsement providing the General Annual Aggregate limits as indicated above Subcontractor shall provide an endorsement entitled "Amendment of Limits of Insurance (Designated Project or Premises)." Such endorsement shall provide for a Products-Completed Operations Annual Aggregate Limit of not less than \$2,000,000 and a General Annual Aggregate Limit of not less than \$5,000,000. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

c. Additional Insured

- (1) Contractor, the Government and their officers, directors and employees shall be named as Additional Insured under the Commercial General Liability Insurance policy but only with respect to liability arising out of the operations for Contractor and the Government by or for Contractor. Such insurance shall be primary as regards any other coverage maintained for or by the Additional Insured and shall contain a cross-liability or severability of interest clause. A copy of the policy endorsement shall be submitted with the certificate of insurance.

In lieu of naming Contractor and the Government as Additional Insured under the Commercial General Liability policy, Subcontractor may provide Owners and Contractors Protective Liability Insurance. If Subcontractor carries Owners and Contractors Protective Liability Insurance, the policy shall have a combined single limit for Bodily Injury or Property Damage of not less than:

- \$2,000,000 Each Occurrence and
- \$2,000,000 Annual Aggregate

If the policy covers more than one project, this Subcontract (the Work) shall be designated in the Policy Declarations.

The policy shall name Contractor and the Government, their officers, directors, and employees, as Named Insured.

4. Automobile Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned.

The combined single limit for Bodily Injury and Property Damage Liability shall be not less than \$1,000,000 for any one accident or loss. The required limits may be satisfied by a combination of a primary policy and an excess or umbrella policy.

Subcontractor's Automobile Liability Insurance shall include coverage for Automobile Contractual Liability.

Note: All personnel operating motor vehicles at SRS must have a valid driver's license, vehicle registration and proof of insurance (regardless of state of origin). Anyone not having these documents is subject to being denied access to SRS and, if in violation of a law, being cited for the violation.

5. In the event Subcontractor maintains insurance covering loss or damage to equipment or any other property of Contractor such insurance shall include an Insurer's waiver of subrogation in favor of Contractor, the Government and their subsidiaries and affiliates.

B. Special Operations Coverage

Should any of the Work:

1. Involve marine operations, Subcontractor, shall provide or have provided coverage for liability arising out of such marine operations including contractual liability under its Commercial General Liability Insurance or Marine Hull

and Machinery Insurance and Protection and Indemnity Insurance. In the event marine operations involve and Subcontractor owned, hired, chartered, or operated vessels, barges, tugs or other marine equipment, Subcontractor agrees to provide or have provided Marine Hull and Machinery Insurance and Protection and Indemnity Insurance and/or Charterer's Liability Insurance. The combined limit of the Protection and Indemnity Insurance and/or Charterer's Liability Insurance shall be no less than the market value of the vessel. The Protection and Indemnity and/or Charterer's liability and the Hull and Machinery coverages shall include coverage for contractual liability, wreck removal, Tower's liability if applicable; and full collision coverage and shall be endorsed:

- a. To provide full coverage to Contractor the Government and their subsidiaries and affiliates as Additional Insureds without limiting coverage to liability "as owner of the vessel" and to delete any "as owner" clause or other language limiting coverage to liability of an insured "as owner of the vessel," and
  - b. To waive any limit to full coverage for Additional Insureds provided by any applicable liability statute.
2. Involve the hauling of property in excess of \$300,000, Subcontractor shall also carry "All Risk" Transit Insurance, or "All Risk" Motor Truck Cargo Insurance, or such similar form of insurance, insuring against physical loss or damage to the property being transported, moved, or handled by Subcontractor pursuant to the terms of this Subcontract. Such insurance shall provide a limit of not less than the replacement cost of the highest value single lift or highest value.  
being moved, whichever is greater, and shall insure the interest of Subcontractor, Contractor and the Government and the subsidiaries and affiliates of Subcontractor, Contractor, and the Government as their respective interests may appear and shall include an insurer's waiver of subrogation rights in favor of each.
  3. Involve aircraft (fixed wing or helicopter) owned, operated, or chartered by the Subcontractor, liability arising out of such aircraft shall be insured for a combined single limit not less than \$10,000,000 each occurrence and such limit shall apply to Bodily Injury (including passengers) and Property Damage Liability. Such insurance shall name Contractor and the Government and their subsidiaries and affiliates as Additional insured, include an Insurer's waiver of subrogation in a favor of the Additional Insureds, state it is primary insurance as regards the additional insured and contain a cross-liability or severability of interest clause. If the aircraft is insured such insurance shall provide for an insurer's waiver of subrogation rights in favor of Contractor and the Government and their subsidiaries and affiliates. In the event Subcontractor charters aircraft, the foregoing insurance and evidence of insurance may be furnished by the owner of the chartered aircraft, provided the above requirements are met.
  4. Involve investigation, removal or remedial action concerning the actual or threatened escape of hazardous or toxic substances, Subcontractor shall also carry Pollution Liability Insurance in an amount not less than \$2,000,000 per occurrence/annual aggregate. Such insurance shall provide coverage for both sudden and gradual occurrences arising from the work performed under this Subcontract. If Completed Operations is limited in the policy, such Completed Operation Coverage shall be for a period of not less than five (5) years. Such insurance shall include a three (3) year extended discovery period and shall name Contractor and the Government as Additional Insured.
  5. Involve inspection, handling or removal of asbestos, Subcontractor shall also carry Asbestos Liability Insurance in an amount not less than \$2,000,000 per occurrence/annual aggregate. The policy shall be written on an "Occurrence Basis" with no sunset clause. Such insurance shall name Contractor and the Government as Additional Insured.
  6. Involve transporting hazardous substances, Subcontractor shall also carry Business Automobile Insurance covering liability arising out of the transportation of hazardous materials in an amount not less than \$2,000,000 per occurrence. Such policy shall include Motor Carrier Endorsement MCS-90. Neither Contractor nor the Government is to be named an additional insured for this policy.
  7. Involve treatment, storage or disposal of hazardous wastes, Subcontractor shall furnish an insurance certificate from the designated disposal facility establishing the facility operator maintains current Environmental Liability Insurance in the amount of not less than \$5,000,000 per occurrence/annual aggregate.

#### C. Related Obligations

1. The requirements contained herein as to types and limits, as well as Contractor's approval of insurance coverage to be maintained by Subcontractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Subcontractor under this Subcontract.
2. The Certificates of Insurance must provide clear evidence of Subcontractor's Insurance Policies containing the minimum limits of coverage and special provisions prescribed in this clause.

#### D. Contractor or Government Furnished Insurance

Neither Contractor nor the Government is maintaining any insurance on behalf of Subcontractor covering against

loss or damage to the work or to any other property of Subcontractor unless otherwise specifically stated herein.

E. Notifications

In accordance with the submittal requirements outlined above, Subcontractor shall deliver the original and two (2) copies of the Certificate(s) of Insurance required by this clause and all subsequent notices of cancellation, termination, and alteration of such policies to:

Savannah River Nuclear Solutions, LLC Building 730-4B – (room)  
Aiken, SC 29808 Attention: (name)  
Reference: Subcontract No. (number)

*(The requirement for “Payment and Performance Bonds” under Paragraph A applies to each Task Release issued which exceeds \$100,000.*

**SP-3 PAYMENT AND PERFORMANCE BONDS**

A. Payment and Performance Bonds.

Subcontractor shall, within ten (10) calendar days after award of this Subcontract, furnish to Contractor a performance Bond and a Payment Bond. Each of the Payment and Performance Bonds shall be in the amount of 100% of the total lump sum price of this Subcontract.

Payment and Performance Bonds shall be in a form and format similar to FAR 53.301- Standard Form 25A modified to name Company as well as the United States of America as obliges and by a company or corporation acceptable to Contractor. Such acceptability is based, in part, upon the surety company being named in the Department of Treasury Circular 570, “Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies”. The cost of such bonds shall be included in the total lump sum price of the Subcontract.

*(The requirement for “Payment Protection” under Paragraph B applies to each Task Release issued which is greater than \$25,000, but not greater than \$100,000).*

B. Payment Protection.

Subcontractor shall within ten (10) calendar days after award of the Task Release, furnish one of the following payment protections:

1. A payment bond.
2. An irrevocable letter of credit (See FAR 52.228-14).
3. A tripartite escrow agreement. Subcontractor establishes an escrow account in a federally insured financial institution and enters into a tripartite escrow agreement with the financial institution, as escrow agent, and all of the suppliers of labor and material. The escrow agreement shall establish the terms of payment under the contract and of resolution of disputes among the parties. Contractor makes payments to the Subcontractor’s escrow account and the escrow agent distributes the payments in accordance with the agreement or triggers the disputes resolution procedures if required.
4. Certificates of deposit. Subcontractor deposits certificates of deposit from a federally insured financial institution with Contractor, in an acceptable form, executable by Contractor.
5. United States bonds or notes (FAR 28.204-1) certificates or cashier’s checks, bank drafts, money orders, or currency (FAR 28.204-2).

The payment protection shall be in an amount equal to 100 percent of the task release amount and provide protection for the full task release performance period plus a one-year period. The cost of such payment protection shall be included in the total lump sum price of the Task Release.

Except for escrow agreements and payment bonds, which provide their own protection procedures, Contractor is authorized to access funds under the payment protection when it has been alleged in writing by a labor or material supplier of a nonpayment occurrence, and to withhold such funds pending resolution by administrative or judicial proceedings or mutual agreement of the parties.

When a tripartite escrow agreement is used, the Subcontractor shall utilize only suppliers of labor and material signed the escrow agreement.

- C. The Subcontractor shall furnish within ten (10) working days additional security required to protect Contractor and the Government and persons supplying labor or materials under the Task Release if:
1. any surety upon any bond furnished with the Task Release becomes unacceptable to Contractor,
  2. any surety fails to furnish reports on its financial condition as required by Contractor,
  3. the Task Release price is increased in order for the penal sum of any bond or other security furnished by Subcontractor hereunder becomes inadequate in the opinion of Contractor.

#### **SP-4 CONTRACTOR-FURNISHED DRAWINGS AND SPECIFICATIONS**

Contractor will furnish specifications and prints of engineering design drawings for each part of the work under this Subcontract. Such drawings will give information required for the preparation of shop detail drawings by Subcontractor. Drawings and sketches furnished by the Contractor may not be to the scale indicated due to distortions and reductions in reproduction. Offerors shall rely on dimensions and coordinates shown on the drawings and sketches to determine other dimensions and quantities. If dimensions and/or coordinates are not sufficient to make this determination, Offerors shall contact Contractor's Subcontracts Specialist during the solicitation phase for clarification. No claims or adjustments to a resultant Subcontract shall be considered for any failure to follow this process.

Subcontractor shall immediately, upon receipt thereof; check all specifications and drawings furnished and shall promptly notify Contractor of any omissions or discrepancies in such specifications or drawings.

All drawings listed in Exhibit "D" Drawings are a part of this Subcontract. Subcontractor shall perform work only in accordance with drawings marked "Issued for Construction." Drawings issued by Contractor after execution of this Subcontract will be issued by Subcontract change notice and upon issuance become a part of the Subcontract, superseding, or supplementing the original Subcontract drawings. If Subcontractor considers such issue to be a change affecting cost or schedule, Subcontractor must request an equitable adjustment in accordance with the General Provision titled "Changes."

Subcontractor shall perform work only in accordance with "Issued for Construction" drawings and any subsequent revisions thereto, and with Contractor reviewed drawings submitted by Subcontractor in accordance with the Special Provision titled "Subcontractor-Furnished Drawings, Data and Samples."

One (1) copy of such specifications and one (1) copy of such drawings will be furnished to Subcontractor without charge.

#### **SP-5 CONTRACTOR-FURNISHED SITE SERVICES**

Contractor will provide site services without cost to Subcontractor as set forth in the Subcontractor Field Conditions Form hereby incorporated into the Subcontract as Attachment "A" to Exhibit "B" Special Provisions.

#### **SP-6 CONTRACTOR-FURNISHED MATERIALS AND EQUIPMENT**

Contractor will furnish to Subcontractor, at Contractor's warehouse or Jobsite storage area, the items listed below to be incorporated into or used in performance of the work under this Subcontract. Such items will be furnished, without cost to Subcontractor, provided Subcontractor shall, at its expense, accept delivery thereof, load, unload, transport to points of use and care for such items until final disposition thereof. At time of acceptance of any such item from Contractor, Subcontractor shall sign a receipt therefor. Signing of such receipt without reservation therein shall preclude any subsequent claim by Subcontractor for any such items received from Contractor in a damaged condition and with shortages. Subcontractor shall maintain records of all Contractor furnished materials. Such records will be made available to Contractor upon request. Subcontractor agrees not to use the furnished materials for any purpose other than the performance of the Subcontract without Contractor's written approval. If at any time after acceptance of any such item from Contractor any such item is damaged, lost, stolen, or destroyed, such item shall be repaired or replaced at the expense of Subcontractor. Items required to be replaced may, at its option, be furnished by Contractor. Upon completion of all the work under this Subcontract, Subcontractor shall, at its expense, return all surplus and unused items to Contractor's warehouse or Jobsite storage area.

Contractor will exert every reasonable effort to make delivery of such materials and equipment so as to avoid delay in the progress of the work. However, should Contractor, for any reason, fail to make delivery of any such item and a delay results the conditions of the General Provision titled “Changes” apply. Subcontractor shall take all appropriate action to mitigate the consequences of such delay.

Materials to be furnished by Contractor: **(materials)**

Contractor will furnish construction tools and/or equipment to Subcontractor the items listed below for use in contaminated areas at no cost to Subcontractor. Subcontractor shall release, defend, indemnify, and hold Contractor harmless against any damages or claims which may arise from use of the tools or equipment.

Contractor provided equipment will be uniquely identified to prevent its removal from contaminated Areas. Subcontractor will ensure only qualified and experienced operators are assigned to operate the provided equipment. A current operation record is to be maintained for each piece of equipment.

In the event provided equipment is not available at the time or place the work is to be performed, or the equipment is inoperable or retracted from Subcontractor’s use an equitable adjustment will be made to the Subcontract.

Tools and/or equipment to be furnished by Contractor: **(tools)**

#### **SP-7 CONTRACTOR-FURNISHED PERMITS**

The General Provision titled “Permits” notwithstanding, Contractor will without cost to Subcontractor, furnish the permits listed below; however, Subcontractor shall, as necessary, provide Contractor and the Government with assistance in obtaining such permits. Subcontractor shall, in accordance with said General Provision titled “Permits”, provide all other permits. All such Contractor-furnished permits are available for examination at the project office of Contractor during regular business hours.

Permits to be furnished by Contractor: As listed in the Subcontractor Field Conditions Form as Attachment “A” to Exhibit “B” Special Provisions.

#### **SP-8 SUBCONTRACTOR-FURNISHED DRAWINGS, DATA AND SAMPLES**

Subcontractor shall submit drawings, data, and samples in accordance with Exhibit “E” Scope of Work and Technical Specifications. Review and permission to proceed by Contractor does not constitute acceptance or approval of design details, calculations, analyses, test methods, certificates or materials developed or selected by Subcontractor and does not relieve Subcontractor from full compliance with contractual obligations.

#### **SP-9 COMMENCEMENT, PROGRESS AND COMPLETION OF THE WORK**

Subcontractor shall perform with its own organization work equivalent to at least **(number)** percent of the total amount of work (not including cost of materials) to be performed under this Subcontract. Subcontractor shall not subcontract with any third party for the performance of all or any portion of the work without the advance written approval of Contractor.

Subcontractor will be given a written “Notice to Proceed” authorizing the start of on-site performance after receipt and acceptance of Insurance Certificates, Payment and Performance Bonds, Pre-job Building Trades conference Certification, schedule for the first sixty days of work, approval of Subcontractor’s Worker Protection Plan (WPP), authorization for electronic payments, and receipt of Subcontractors designation of an Assigned Competent Person (ACP).

Delay in the receipt and acceptance of submittals required by this Subcontract is not an excusable delay under the General Provisions titled “Excusable Delays”.

Subcontractor shall complete the work under the Subcontract to meet the following Subcontract Milestone Dates:

- Mechanical Completion (Per individual task release)
- Physical Completion (Per individual task release)

Subcontractor's site representative will be required to attend meetings, weekly, bi-weekly, monthly, or as often as required by Contractor to discuss schedule, safety, quality, design, delays, and/or other subjects relating to the work.

Subcontractor shall complete and submit to Contractor's Subcontract Technical Representative (STR), on a daily basis, a daily log. The Log shall document all events occurring on the jobsite including any delay to the work in progress, as well as particular notice given to the amount, type, and number of workmen by trades. Lower-tier Subcontractor, material, and equipment deliveries, equipment on site, equipment in use, work in progress, inspection performed, tests performed, any construction activities which do not meet the technical requirements of the Subcontract Documents, corrective actions for unacceptable construction activities and significant problems affecting progress or quality of the work. The Log shall also reflect activities as they relate to the construction schedule.

Weekly Man-Hour Report: Subcontractor shall submit to the STR on the first working day of the week, the Subcontractor's Weekly Man-hour Report for the previous week's work.

Subcontractor shall give Contractor full information in advance as to its plans for performing each part of the work. If at any time, Subcontractor's actual progress is inadequate to meet the requirements of this Subcontract, Contractor may notify Subcontractor to take such steps as may be necessary to improve its progress. If within a reasonable period as determined by Contractor, Subcontractor does not improve performance to meet the Subcontract milestones set forth above, Contractor may require an increase in Subcontractor's labor force, the number of shifts, overtime operations, additional days of work per week, expedited shipment(s) of equipment and materials, and an increase in the amount of construction plant and equipment, all without additional cost to Contractor. Neither such notice nor Contractor's failure to issue such notice shall relieve Subcontractor of its obligation to achieve the quality of work and rate of progress required by this Subcontract.

Noncompliance with Contractor's instruction shall be grounds for Contractor's determination Subcontractor is not prosecuting the work with such diligence as will assure completion within the times specified. Upon such determination, Contractor may terminate this Subcontract pursuant to the General Provision titled "Termination for Default."

***(Alternate one for Bar Chart Provisions Option as defined in the Field Conditions)***

**SP-10 CONSTRUCTION SCHEDULE**

For task durations of greater than two weeks, Subcontractor shall prepare and submit to Contractor a detailed Bar Chart Schedule for each Task when returning each signed Task Agreement For task durations less than two weeks, Subcontractor shall provide, at a minimum, forecast start and completion dates with the signed Task Agreement. Each Schedule shall provide for the expeditious and practical execution of the work.

The Bar Chart Schedule shall:

1. display all elements of the work including construction testing, manpower requirements and planned equipment usage.
2. Identify the restraints and interfaces between the Subcontractor's activities and the activities to be performed by any separate Subcontractor or known lower-tier Subcontractor or by Contractor (e.g., delivery of Contractor furnished equipment or services).
3. Display dates of planned high and medium hazard tasks as identified in the Subcontract Safety Checklists from Exhibit F, "Environmental, Safety and Health Provisions," Article ES&HP-2.

Subcontractor is responsible for determining the sequence and duration of the detailed construction activities. Approval of the Subcontractor's Baseline Schedule by Contractor shall in no way constitute or be construed as an admission or representation by Contractor that the Schedule, as approved, is feasible or practical. Subcontractor assumes the risk of the practicality and feasibility of the construction schedule.

**SP-11 MEASUREMENT FOR PAYMENT (Per Individual Task Release)**

The quantity of work to be paid for under any item for which a unit price is fixed shall be the number of Contractor approved units of work satisfactorily completed in accordance with the specified unit measurement for payment provisions of this Subcontract.

Subcontractor shall make all surveys necessary for determining all quantities of work to be paid under this

Subcontract. Copies of field notes, computations and the records made by Subcontractor for the purpose of determining quantities shall be furnished to Contractor upon request. Subcontractor shall notify Contractor prior to the time such surveys are made. Contractor, at its sole discretion, may witness and verify such surveys. Measurements and computations shall be made by such methods as Contractor may consider appropriate for the class of work measured and the estimate of quantities of work completed shall be compatible with the reporting requirements of the Special Provision titled "Construction Schedule". The dividing limits, lines or planes between adjacent items or classes or excavation, concrete or other types of work where not definitely indicated on the drawings or in the specifications shall be as determined by Contractor.

Pursuant to the Special Provision titled "Application for Payment and Payment," Subcontractor shall prepare and submit to Contractor Application for Payment in accordance with approved monthly estimates.

#### **SP-12 APPLICATION FOR PAYMENT AND PAYMENT (Per Individual Task Release)**

Subcontractor shall prepare and submit Application for Payments pursuant to the Special Provision titled "Measurement for Payment".

Subcontractor shall certify in each Application for Payment that there are no known outstanding mechanic's or material-men's liens, and all due and payable bills have been paid or are included in the application for payment.

Within thirty (30) calendar days after receipt of an acceptable Application for Payment, Contractor will pay Subcontractor ninety percent (90%) of the approved Application for Payment amount retaining the balance (Retainage) pending Final Acceptance of the work or as otherwise specified below.

After the estimated value of work completed exceeds 50% of the Subcontract Sum, and provided Subcontractor is progressing with the work in the manner and time satisfactory to Contractor, Contractor may reduce the amount to be retained to five (5) percent, or to such lesser amount, including none, as may be decided upon by Contractor.

Contractor shall, after receipt of evidence of full payment to the surety, reimburse Subcontractor for the amount of premiums paid for Performance and Payment Bonds. Subcontractor shall request such reimbursement with the first Application for Payment. The retainage provisions of this Special Provision do not apply to payment for bond premiums.

Contractor may, as a condition precedent to any payment, require Subcontractor to submit for itself, its Subcontractors, immediate and remote and all material suppliers, vendors, laborers, and other parties acting through or under it, complete waivers, and releases of all claims against Contractor or the Government arising under or by virtue of this Subcontract.

Any amounts otherwise payable under this Subcontract may be withheld, in whole or in part, if:

1. Any claims are filed against Subcontractor by Contractor or third parties;
2. Subcontractor is in default of any Subcontract condition including, but not limited to, the schedule, quality assurance and health and safety requirements;
3. Subcontractor has not submitted:
  - a. Schedules as defined in the Special Provision titled "Subcontract Schedule",
  - b. Proper insurance certificates, or not provided proper coverage or proof thereof,
  - c. Safety plan and
  - d. Required Performance and Payment Bonds or Contractor approved equivalent securities;
4. Adjustments are due from previous overpayment or audit result; or
5. Offsets in favor of Contractor in other transactions are asserted.

Contractor will pay such withheld payment if Subcontractor:

1. Pays, satisfied, or discharges any claim of Contractor, owner, or third parties against Subcontractor under or by virtue of this Subcontract; or
2. Cures all defaults in the performance of this Subcontract.

If claims filed against Subcontractor connected with performance under this Subcontract, for which Contractor may be held liable if unpaid (e.g., unpaid withholding and back taxes), are not promptly removed by Subcontractor after

receipt of written notice from Contractor to do so, Contractor may remove such claims and deduct all costs in connection with such removal from withheld payments or other moneys due, or which may become due, to Subcontractor. If the amount of such withheld payment or other moneys due Subcontractor under this Subcontract is insufficient to meet such costs, or if any claim against Subcontractor is discharged by Contractor after final payment is made, Subcontractor and its surety or sureties, if any, shall promptly pay Contractor all costs incurred thereby regardless of when such claim arose or whether such claim imposes a lien upon the Project or the real property upon which the Project is situated.

In the event a lien is filed, Subcontractor shall remove the lien, or see it is removed or shall furnish a bond for the full amount thereof within seven (7) calendar days of notice by Contractor or as otherwise specified by applicable law. Upon Subcontractor's failure to comply promptly with the foregoing requirements Contractor may remove such liens. Subcontractor shall reimburse Contractor for all costs in connection with the removal of such liens and Contractor may deduct such costs from payments or other moneys due, or which may become due, to Subcontractor.

Upon receipt by Subcontractor of Contractor's Notice of Final Acceptance of the work under this Subcontract, Subcontractor shall prepare, as required above, an estimate of all remaining work satisfactorily completed under this Subcontract. Upon Contractor's approval of such estimate, Subcontractor shall prepare and submit its final Application for Payment in accordance with the approved estimate.

***(Optional paragraph for Warranty Retention)***

Upon completion and acceptance of the work, Contractor shall retain \$10,000 to ensure the requirements of the General Provisions titled "Warranty" are followed. If a warranty issue arises and Subcontractor fails to respond in a reasonable and timely manner, Contractor shall utilize these retained funds to remedy any defective work or product covered by the warranty. At the completion of the twelve-month warranty period. Contractor shall make final payment from this warranty retainage.

***(Include the following paragraph when there is a potential for contaminated equipment)***

Contractor shall pay Subcontractor for contaminated equipment if Contractor's Health Physics (HP) determines Subcontractor equipment or material cannot be decontaminated. The contaminated item will be purchased at the fair market depreciated value listed in Exhibit C, Schedule of Quantities and Prices. Contractor will only negotiate a fair market depreciated value for Subcontractor equipment or material which was presented as a candidate for contamination prior to Subcontract award or agreed to by Contractor in writing after award. ***(End of Clause Options)***

Unless otherwise specified by applicable law, Contractor shall, within sixty (60) calendar days following Final Acceptance of the work and after submittal of such final Application for Payment, pay to Subcontractor the amount then remaining due, provided, Subcontractor shall have furnished Contractor and the Government for itself, its Subcontractors, immediate and remote, and all material suppliers, vendors, laborers and other parties acting through or under it, waivers and releases of all claims against Contractor or the Government arising under or by virtue of this Subcontract, except such claims, if any, as may with the consent of Contractor and the Government be specifically excepted by Subcontractor from the operation of the release in stated amounts to be set forth therein.

No interest is payable to Subcontractor for any claim or Application for Payment Subcontractor may submit for payment except as specifically imposed by a Court on any judgment obtained by Subcontractor or as otherwise provided herein.

No payments of Application for Payments or portions thereof shall at any time constitute approval or acceptance of work under this Subcontract, nor be considered to be a waiver by Contractor or the Government of any of the terms of this Subcontract. However, title to all material and equipment for which payment has been made, whether or not the same has been incorporated in the work, and title to all completed work whether paid for or not, shall vest in Contractor or the Government as the case may be, and in any case shall not be part of Subcontractor's property or estate if Subcontractor is adjudged bankrupt or makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of Subcontractor's insolvency.

Application for Payments shall be signed, scanned, and submitted in an electronic PDF format as prescribed by the Contractor. Subcontractor shall email the signed original, with all supporting documentation, to the following address:

SRNS Accounts Payable

The Procurement Representative and the STR shall be included in distribution.

### **SP-13 SOUTH CAROLINA TAX REQUIREMENTS FOR NONRESIDENTS**

To the extent possible, Purchaser will use its best efforts to obtain services, materials and supplies furnished under this Subcontract that are tax exempt by sharing the exemption. Purchaser shall determine at the time of providing bids for this Sales Agreement and all subsequent modifications to this Sales Agreement if it is able to procure services, materials and supplies that are tax exempt. If the exemption certificate is not accepted, then the Sales Agreement price shall include all applicable Federal, State, and local taxes and duties.

Non-resident Subcontractors conducting a business or performing personal services of a temporary nature within South Carolina are required to register with the South Carolina Department of Revenue in accordance with Title 12 of the Code of Laws of South Carolina, sections 12-8-540 & 12-8-550. Proof of registration must be submitted to [ASG@srs.gov](mailto:ASG@srs.gov) and the Company Procurement Representative prior to award.

### **SP-14 PRICING OF ADJUSTMENTS**

When costs are a factor in any determination of a Subcontract adjustment pursuant to the General Provision titled "Changes", or any other provision of this Subcontract, such costs, upward or downward, shall be submitted by Subcontractor in the form of a lump sum proposal on Contractor's forms "Change Notice Proposal Summary" and "Proposal Detail Worksheet".

The proposal shall include an itemized breakdown of all increases or decreases in at least the following detail:

- A. Direct Labor. Charges for labor furnished and used by Subcontractor shall be allowable for all manual classifications up to and including foremen. Charges shall not be included for superintendents, assistant superintendents, general foreman, surveyors, office personnel, timekeepers, and maintenance mechanics; these costs are recovered in the overhead and profit rates established by this clause. Labor rates used to calculate the costs shall be those rates in effect during accomplishment of the changes.

Direct labor costs shall include, in addition to direct payroll costs, payroll taxes, insurance, vacation allowance, subsistence, travel time, overtime premium and any other payroll additives required to be paid by Subcontractor by law or labor agreement(s), e.g., Site Support Alliance, collective bargaining agreement(s), etc. Copies of certified pertinent payrolls shall be submitted to Contractor using LCPtracker System.

- B. Equipment. Charges shall be allowable for the rental and operation of all construction and automotive equipment furnished and used by Subcontractor, except for equipment or tools with a new cost at point of origin of Five Hundred Dollars or less each, which are deemed to be covered in the overhead and profit rates established by this clause.

For Subcontractor-owned construction equipment, reasonable equipment charges shall be allowed in accordance with the following:

1. Rental rates as agreed upon in the Subcontract; or
2. Rental rates not greater than seventy percent (70%) of "Rental Rate Blue Book by Equipment Watch" daily rental rates applicable for the period of performance of the change; and
3. Appropriately discounted to stand-by rates for idle time reasonably required.

When the operated use of equipment is infrequent and, as determined by Contractor, such equipment need not remain at the work site continuously, charges shall be limited to actual hours of use. Equipment not operating but retained at the location of changes in the Contractor's direction shall be charged at the standby rate.

For Rental Equipment not owned by Subcontractor, charges will be computed on the basis of actual invoice cost.

For the cost of both rented and owned to be allowable, Subcontractor must justify, and Contractor agree, the individual pieces of equipment are needed, are appropriate for the work, and the mobilization costs are allocable to the change.

- C. Materials. Approved incurred costs for material incorporated into the changed work or required for temporary construction facilities made necessary by the change shall be allowable at net cost delivered to the Jobsite.
- D. Overhead, Profit and All Other Costs. Overhead, profit and markup percentages included in the proposal shall include, but not be limited to, insurance, use of small tools, incidental job burdens, and general home and field office expenses. No percentages for overhead, profit or lower-tier markup will be allowed on employment taxes under FICA and FUTA. No percentage for profit will be allowed on delays.
- The percentages for overhead and profit will be negotiated and may vary according to the nature, extent and complexity of the work involved. The maximum percentage for the overhead, profit and markup shall not exceed those shown below.
  - For work subcontracted to a lower-tier by Subcontractor, the proposal submitted to Contractor shall only include one overhead percentage and one profit percentage in addition to Subcontractors markup. No more than these three percentages will be allowed regardless of the number of tiers of Subcontractors. The lower-tier's percentage of overhead and profit shall not exceed those shown below.
  - Allowable percentages on changes for direct hire work will not exceed the following: 10 percent overhead and 10 percent profit on the first \$20,000; 7.5 percent overhead and 7.5 percent profit on the next \$30,000; and 6.75 percent overhead and 6.75 percent profit on balance over \$50,000. Profit shall be computed by multiplying the profit percentage by the sum of the direct costs and computed overhead costs.
  - The prime Subcontractor's fee on work performed by lower-tier Subcontractors will be based on the net increased cost to the prime Subcontractor as applicable. Allowable fee on changes will not exceed the following: 8 percent fee on the first \$20,000; 5.5 percent fee on the next \$30,000; and 2 percent fee on balance over \$50,000. This will be calculated cumulatively. For example, if the first change notice is \$20,000, the allowable fee is 8%. If the second change notice is \$5,000, the allowable fee is again 8% (\$20,000 + \$5,000 = \$25,000). If the third change notice is \$10,000, the allowable fee is 5.5% (\$20,000 + \$5,000 + \$10,000 = \$35,000).

**SP-15 APPLICABLE LAW**

Irrespective of the place of performance, the provisions in this Subcontract which adopt or adapt Federal Government acquisition regulations shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contract appeals, and quasi-judicial agencies of the federal government. To the extent the federal common law of government contracts is not dispositive, the laws of the State of South Carolina shall apply.

**SP-16 LIQUIDATED DAMAGES**

The parties hereby agree the damages which Contractor, or the Government will sustain as a result of Subcontractor's failure to meet key Subcontract Milestones are difficult or impossible to determine with certainty and, therefore, have in good faith estimated as fair compensation (and not as a penalty) the liquidated damages as set forth below. If Subcontractor fails to deliver the equipment or materials or perform the services within the time frames specified in the Subcontract for the Subcontract Milestones listed below, or any extensions evidenced by a change notice or duly executed Subcontract modification, the Subcontractor shall pay to Contractor as fixed, agreed, and liquidated damages for each calendar day of delay the sum(s) specified below, which amounts shall be independently calculated for each Subcontract Milestone.

<u>NO</u>	<u>SUBCONTRACT MILESTONE</u>	<u>AMOUNT OF DAILY LIQUIDATED DAMAGE</u>
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**SP-17 AUTHORITY OF PERSONNEL**

- A. The Contractor will designate a Subcontracts Specialist who will be responsible for administering the Subcontract terms and conditions and who shall act as the Contractor's authorized representative. Additionally, all correspondence shall be issued and received by the designated Subcontracts Specialist. The only individual authorized to direct the Subcontractor to deviate from the express, written terms of the Subcontract is the authorized Subcontracts Specialist.

The Subcontracts Specialist is: (name)

- B. The Contractor will designate a Subcontract Technical Representative (STR) who will be responsible for the technical aspects of the performance of the Subcontract. The STR may designate other personnel to oversee the performance of the Work, sign field tickets, etc. However, the designated STR retains ultimate authority over the technical aspects of the Work. Should the Subcontractor and STR disagree over the technical requirements of the Subcontract, such matters will be immediately referred to the Contractor's Subcontracts Specialist for resolution. The STR does not possess authority, express or implied, to direct the Subcontractor to deviate from the terms and conditions of the Subcontract.

The Subcontract Technical Representative (STR) is: (name)

#### **SP-18 PROCUREMENT INTEGRITY**

- C. The Subcontractor warrants it is familiar with and will comply with all the requirements of Section 27 of the Office of Federal Procurement Policy Act of 1988 (41 U.S.C. 423) as implemented in the Federal Acquisition Regulations (referred to in this clause as "the Act"), including, but not limited to:
- (1) prohibitions on giving or offering future employment, money, or anything of value to a procurement official,
  - (2) prohibitions on soliciting or obtaining from an agency, prior to award, any proprietary or source selection information regarding the procurement, and (3) limits on participation of former government employees and officials in negotiation and performance of government contracts. For a violation of the Act, the Government may reduce the fee or profit on the contract, terminate all or a portion of the contract for default, suspend or debar the contractor from future Federal Government work, impose fines or imprisonment or pursue other legal remedies.
- D. In addition to any other remedies provided by law or herein, the Subcontractor agrees to indemnify and hold Contractor harmless to the full extent of any loss (including any reduction in fee or profit), damages or expenses (including attorneys' fee) if any of the Subcontractor's actions, acting alone or in concert with any other person or entity, cause the Government to enforce the provisions of the Act or related regulations.
- E. The Subcontractor agrees to include the substance of this clause, including this paragraph C, appropriately modified to reflect the identity and relationship of the parties, in all lower-tier Subcontracts in amounts exceeding \$100,000.

*(This provision applies to Subcontracts and Task Order Agreements (TOAs) awarded to large business equal to or in excess of \$1,500,000)*

#### **SP-19 SUBCONTRACTING PLAN**

From this Subcontract, it is required for a Subcontracting Plan be submitted and approved in accordance with FAR Clause 52.219-9 "Small Business Subcontracting Plan", and FAR clause 52.219-9 "Small Business Subcontracting Plan", Alt III (JAN 2017 and Alt IV-(Deviation 2019-O0005) for TOAs against Basic Ordering Agreements (BOAs) and Blanket Purchase Agreements (BPAs). The Subcontractor must complete the Small Business Subcontracting Plan (SRNS-MS-2008-00030) to be submitted to the Subcontract Specialist. The approved Subcontracting Plan is hereby established as an enforceable part of this Subcontract. The failure of Subcontractor or its lower-tier Subcontractor(s) to comply in good faith with the approved Subcontracting Plan shall be considered a material breach of the Subcontract.

Subcontractor shall submit reports of lower-tier Subcontract awards to small, small disadvantaged, woman owned and HUBZone small business concerns electronically via the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The Subcontracting Report for Individual Contracts (formally the SF-294) shall be entered into eSRS semiannually and at Subcontract completion. The Summary Subcontract Report (formally the SF-295) shall be entered into eSRS annually.

*(Use this article in all Subcontracts. DO-E1 is authorized for Construction under Atomic Energy Programs - Department of Energy and DO-E2 is authorized for Operations under the Atomic Energy Programs - Department of Energy)*

#### **SP-20 DEFENSE PRIORITIES ALLOCATION RATING**

This is a rated Order certified for national defense, emergency preparedness, and energy program use, and the

Contractor shall follow all the requirements of the Defense Priorities and Allocations System regulation. (15 CFR 700). Should any applicable DPAS regulations pertaining to acceptance and rejection of rated Orders (see 15 CFR 700.13), preferential scheduling (see 15 CFR 700.14), extension of priority ratings (see 15 CFR 700.15) changes or cancellations of priority ratings and rated orders (see 15 CFR 700.16) use of rated Orders (see 15 CFR 700.17), and limitations on placing rated Orders (see 15 CFR 700.18) conflict with this Agreement, then the DPAS will control.

15 CFR 700.17 provides an exemption for all Orders less than \$75,000, or one half of the Federal Acquisition Regulation (FAR) Simplified Acquisition Threshold, (see FAR 2.101) whichever amount is larger, provided delivery can be obtained in a timely fashion without the use of the priority rating.

This rating must be passed on to lower-tier Subcontractors in all cases to ensure delivery of the items required. The Subcontract is rated (DO-E1 for Construction or DO-E2 for Operations). Reference FAR 52.211-15.

## **SP-21 WORK HOURS AND HOLIDAYS**

Work Hours. work scheduled at the Company Site shall be in accordance with Exhibit “G” Site Support Alliance, Article XI, Hours of Work, Overtime, Shift Provisions. Subcontractor shall inform STR of the intended weekly work schedule at the Pre-construction Meeting. Any change to this schedule or subsequent schedules shall be submitted by Subcontractor in writing to the STR at least one week prior to desired start of the proposed schedule. The STR shall authorize any approved weekly work schedule change in writing.

Holidays. Holidays at the Company Site shall be in accordance with Exhibit “G” Site Support Alliance, Article XII, Holidays.

## **SP-22 RECEIPT OF SUBCONTRACTOR’S MATERIAL AND/OR EQUIPMENT ON SITE**

Subcontractor shall not schedule materials and/or equipment for delivery to the Jobsite until such time as it is mobilized to receive and accept property at the Jobsite. Subcontractor shall certify all materials and/or equipment brought onto the site is free from any contamination. Contractor reserves the right to perform survey of any materials/equipment for presence of hazardous or radioactive material prior to bringing the materials/equipment into or from the Jobsite. Any deficiencies shall be corrected, or material/equipment replaced at the expense of the Subcontractor.

Subcontractor is not permitted to use Contractor’s mailing address and in no case shall material or equipment be addressed in care of Contractor. Special conditions are recognized which may exist warranting assistance in the delivery of equipment or materials by Contractor. However, in these cases the Subcontractor must have explicit prior written authorization from Contractor.

Subcontractor’s suppliers and equipment delivery shall access SRS at the Aiken Barricade located on South Carolina Highway 19, approximately one mile south of SC Highway 278. Access shall only be gained between 9:00 a.m. and 3:00 p.m., Monday through Thursday. Subcontractor shall notify STR one working day in advance of anticipated deliveries whenever possible, for this will help expedite the process. Delivery personnel who have a current SRS Photo Badge can go directly to the Aiken Barricade for access into the SRS. Centerra Group, LLC perimeter guard will perform a security inspection at the barricade. If an escort is required, Subcontractor’s Assigned Competent Person (ACP) is called. If delivery personnel do not have a current SRS Photo Badge, they must report to the Contractor’s Badging Office located in Building 703-46A at SRS Road 1, approximately two miles east of SC Highway 125 in Jackson, SC, to obtain a temporary badge prior to reporting to the Aiken Barricade for entrance into the SRS. Following are the events which will occur after arrival at the Badging Office:

- Bill of Lading (include Contractor’s Subcontract number) shall be validated by Contractor’s Representative at the Badging Office
- Contractor’s Representative issues “Visitor/Vendor Safety Briefing”
- Contractor issues temporary (OSR 142 LN) badge
- After obtaining temporary badge, driver can proceed to the Aiken Barricade for site access
- Centerra perimeter guard performs security inspection
- Escort is called (Subcontractor’s Assigned Competent Person (ACP))
- ACP escorts supplier to jobsite
- ACP relates specific safety measures for loading/unloading

- After delivery is completed, the ACP escorts supplier back to Aiken Barricade

**SP-23 TITLE AND RISK OF LOSS**

Where Subcontractor fabricates or purchases equipment, materials, or other tangible items (Goods) for incorporation into the work or any of its separate parts, the title of such Goods shall be vested in the Government when the first of the following events occurs:

1. The Goods or part thereof is first identifiable as being appropriated to the Subcontract,
2. When Contractor pays for the Goods or part thereof in accordance with the Subcontract, or
3. When the Goods or part thereof are dispatched to or from Subcontractor’s fabrication yard or to the jobsite.

However, such transfer of title in the Goods will be without prejudice of Contractor’s right to refuse the Goods in case of non-conformity with the requirements of the Subcontract.

Irrespective of transfer of title in the Goods, Subcontractor shall remain responsible for risk of loss or damage to work in progress and all Goods until Final Acceptance.

Subcontractor shall ensure the above provisions are imposed upon its suppliers and Subcontractors of any tier and shall execute all documents and take all steps necessary or required by Contractor to vest title as Contractor may direct.

Title to standard Goods of the type usually bought in bulk such as reinforcement bars, piping materials, non-tagged instruments and instrument installation material, cable and similar items which are not incorporated into the work shall revert to Subcontractor upon agreement by the Contractor such Goods are not required for the work.

**SP-24 COMPONENT WARRANTIES**

In addition to the General Provision titled “Warranty” Subcontractor shall obtain or provide, for the benefit of Contractor, the Government and their successors in interest, warranties or guarantees for the equipment, materials and work furnished by lower-tier Subcontractors and Suppliers. Such warranties or guarantees are to run for the period set forth in the applicable specification of this Subcontract or, when not specified, period customarily provided by the Supplier. Subcontractor shall use its best efforts to enforce such lower- tier warranties or guarantees on its own behalf or, if requested by Contractor or the Government, on behalf of Contractor or the Government. Subcontractor shall provide warranty documentation by Final Acceptance or as otherwise required by this Subcontract.

**SP-25 SECURITY REQUIREMENTS**

A. General Security Requirements

Citizenship - Subcontractor employees and its Subcontractor’s employees who require authorization to have access to the Site must be a citizen of the United States and be able to provide proof of citizenship

Property Passes - Property passes are necessary for the movement of Government property on or off site.

B. ESCORTS

*(Alternate 1)*

Contractor will provide all Security Escorts required for the performance of work under this Subcontract. The number of escorts to be provided by Contractor will be established in Section III, “Security and Escort Data” of the Subcontract Field Conditions, an attachment to these Special Provisions. Contractor shall provide and pay for escort services to support a reasonable level of staffing during regular working hours through to the contractual Physical Completion of the work. Should Subcontractor require additional escorts due to higher staffing levels; or require escorts for overtime, weekends, or holiday work; or should the work extend past the contractual Physical Completion date at no fault of Contractor, the Subcontractor will be responsible for the cost of such escort services.

*(Alternate 2)*

Subcontractor will provide all Security Escorts required for the performance of work under this Subcontract.

**SP-26 QUALITY ASSURANCE**

Contractor utilizes a work-specific Quality Assurance system to assure the quality of work performed under this Subcontract. A primary requirement of this Quality Assurance system is Subcontractor has the full responsibility for assuring all work (which term included but is not limited to submittals, materials, workmanship, manufacturing or manufacture and fabrication of components) performed by it or its lower-tiers is in strict compliance with the Subcontract Documents. Subcontractor shall select the methods used to satisfy this requirement and the methods selected shall be subject to review by Contractor.

If this Subcontract includes work which Contractor considers to be of a special nature, specific Quality Assurance requirements which are in addition to and supplement the primary requirements shall be included in Exhibit "E" Scope of work and Technical Specifications.

When the use of a lower-tier Subcontractor(s) is deemed necessary, the Prime Supplier is responsible to flow down those Technical and Quality requirements deemed applicable for the activities within its defined scope of work, in accordance with referenced Codes/Standards/Material Specifications, or other requirements identified within the procurement documents included with this Purchase Order/Subcontract package. The Prime Subcontractor is furthermore responsible to flow down all commercial Terms and Conditions, including articles incorporated by reference, to all lower-tier Subcontractor, which includes verification of the lower-tier Subcontractor being appropriately qualified to perform the activities required to satisfy this procurement. The Prime Subcontractor must maintain objective evidence of the successful flow down of the referenced requirements and provide such evidence to Company upon request. This flow down is also required at all levels if the lower-tier Subcontractor to the Prime Subcontractor deems it necessary to subcontract further its parts of this Company contract.

When NQA-1 is invoked as the governing quality standard, the Prime Supplier and applicable lower-tier Supplier(s) shall be required to meet the Part I Requirements (Sections 100 through 900, as deemed applicable), in the Procurement documents. NQA-1 Part II will be invoked at the discretion of Company and will be detailed via the procurement documents, and if invoked, must be flowed down from the Prime Supplier to its applicable lower-tier Supplier(s) at all levels. If the Prime Supplier or its lower-tier Supplier(s) intends to upgrade materials by way of a Commercial Grade Dedication Process, Company must be notified of this intent and the Supplier's process verified and approved prior to dedicating any material associated with a Company procurement.

The Company Subcontract Specialist is to be notified in writing, within five working days of any changes within your company as identified below:

- Key quality personnel to include as a minimum:
- Quality Assurance/Quality Control Manager
  - Assistant Quality Assurance/Quality Control Manager
  - Other critical Quality Assurance/Quality Control personnel
- Quality Assurance Program Revisions
- Company ownership transfers/buy-outs, and
- All identified Nonconformance or Corrective Action Reports associated with Company contracts including those issued concerning lower-tier Suppliers.

The Subcontractor is alerted about strict adherence to the General Terms and Conditions or General Provisions articles pertaining to Acceptance of Terms and Conditions or Subcontracting (whichever is applied) is required to include the applicable commercial/technical/quality assurance requirements when utilizing lower-tier suppliers.

All QA Inspection Report documentation must be submitted in PDF format electronically to the following email address: [QA-Electronic-Documents@srs.gov](mailto:QA-Electronic-Documents@srs.gov).

#### **SP-27 USE OF CONTRACTOR FACILITIES**

Subcontractor personnel will not be permitted to use Site facilities, cafeterias, lunchrooms, restrooms, or change rooms, unless stated otherwise.

Subcontractor must furnish its own drinking water which meets the requirements of Federal and the State of South Carolina laws. Contractor will furnish sanitary facilities and will be coordinated by the STR.

Contractor will not furnish any enclosed storage areas unless stated otherwise. If Subcontractor provides his own such facilities, the location shall be approved by Contractor.

Contractor will not provide flammable storage facilities. If Subcontractor provides his own such facility, the location and details of construction must be approved by Contractor, and shall comply with OSHA, DOT, and SCDHEC requirements.

**SP-28 INSPECTION EXCEPTION FOR THORIATED TUNGSTEN ELECTRODES**

All welding performed within the confines of the Company Site under this Subcontract shall be in strict accordance with “WSRC-TM-95-1 SRS Engineering Standards Manual, Procedure W-SPP-G-00013, SRS Subcontractor Welding Performance” and the applicable codes, technical specifications, design drawings, and all other specified design documents stated within the body of the Subcontract. “Welding” shall be defined but not be limited to the acts of welding, brazing, bonding, and soldering. The Subcontractor, as allowed by governing codes, has the option of using SRS’ welding program in accordance with “WSRC-TM-95-1 SRS Engineering Standards Manual, Procedure W-SPP-G-00013, SRS Subcontractor Welding Performance”, or the Subcontractor may submit its own program for review and approval per “WSRC-TM-95-1 SRS Engineering Standards Manual, Procedure W-SPP-G-00013, SRS Subcontractor Welding Performance” prior to the start of any welding activities.

Subcontractor and their individual employees agree to off-site use of SRS Welding Procedures and Welder Qualifications obtained at SRS shall be at the sole risk and responsibility of the Subcontractor, and Subcontractor shall indemnify and save Contractor and the Government harmless from any and all claims, demands, actions or causes of action, and for any expense or loss by reason of Subcontractor’s and their employees’ possession and use of SRS procedures and qualifications.

The site has determined thoriated tungsten electrodes will no longer be used in the manual gas tungsten arc welding (GTAW) process at SRS. This applies to the manual GTAW process only. For automatic GTAW the use of thoriated tungsten is allowed due to the dedicated grinding area and control of the process.

**SP-29 DAVIS BACON ACT REQUIREMENTS**

This Subcontract is subject to the Davis Bacon Act. The following describes some of the basic requirements of the Act. Contractor in no way warrants this Special Provision represents Subcontractor’s total obligations under the Act. Subcontractor has the sole responsibility to ensure it fully complies with the Act and the regulations at 29 CFR Part 5 which implements the Act and the Department of Labor’s wage determination found as Attachment “B” to Exhibit “G” Site Support Alliance. Failure to comply with the Act shall constitute a breach of this contract as well as a violation of the Act. A local office of the United States Department of Labor should be contacted if you have specific questions on the requirements of the Act.

Those Offices are:	Augusta, GA	(706)	860-6577
	Atlanta, GA	(404)	331-4306
	Columbia, SC	(803)	765-5981

**CLASSIFICATION OF WORKERS**

The wage determination incorporated in this Subcontract lists several classifications of workers. Selecting the appropriate classification is the responsibility of Subcontractor, based upon a review of the duties required in the Subcontract Documents and the type of work performed by the employee. The prevailing work practices at the Company Site may differ from industry standards. No adjustments to this Subcontract will be granted for Subcontractor’s failure to classify employees properly. If Subcontractor employs any apprentices, Contractor will request a copy of the program registration for the specific employee. Failure to obtain and submit such registration will result in a requirement to pay journeymen rates for such apprentices.

**DISPUTES CONCERNING LABOR STANDARDS**

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures. Disputes within the meaning of this Special Provision include disputes between Subcontractor or any of its lower-tier Subcontractors and Contractor, the United States Department of Labor, or their employees or representatives.

The wage rates stipulated in the Department of Labor's wage determination are the hourly rates for work at the Site. Subcontractor is responsible for paying the prevailing rate to the worker for the classification of work actually performed.

Overtime must be paid at time and one-half the basic rate or the regular rate, whichever is higher, and the designated fringe benefits rate must be paid for all hours worked under this Subcontract. The hours worked by an employee on both Contractor and non- Contractor work are to be included in the calculation of hours worked for overtime purposes.

Construction workers employed under this Subcontract are entitled to receive the fringe benefits stipulated in the wage determination. Subcontractor may discharge its obligations under this provision by 1) providing bona fide plans, funds, or programs, the minimum value of which is the monetary amounts shown in the wage determination; 2) providing plans, funds, or programs of a lesser value and paying the difference in wages to the employee; 3) paying a cash equivalent to the employee. Subcontractors may be required to provide justification for the differential of fringe benefits.

Subcontractor is required to submit payrolls for its covered employees and all lower-tier Subcontractor employees to the Subcontracts Specialist within seven (7) days of close of the pay period. The required payroll information shall be submitted electronically utilizing the LCPTracker© System, which is available at <http://www.lcptracker.net>. Registration should be coordinated with the Procurement Representative. The payrolls must be accompanied by a signed "Statement of Compliance," certifying the information is correct and complete. Subcontractor is responsible for compliance with 29 CFR Part 3.

#### STATEMENT AND ACKNOWLEDGMENT FORM

Subcontractor is required to deliver to the Subcontracts Specialist, fourteen (14) days after award, a completed "Statement and Acknowledgment Form" (SF 1413) for each lower-tier Subcontract.

#### CRAFTS PERSONNEL REQUISITION FORM

Subcontractor shall utilize the "Crafts Personnel Form", Attachment "D" to Exhibit "G" Site Support Alliance, to request craft personnel from the Union Halls.

*(This article is applicable only if this Subcontract is partially funded.)*

#### **SP-30 LIMITATION OF FUNDS**

- A. Of the total price of this Subcontract, the sum of \$ is presently available for payment and allotted to this Subcontract. It is anticipated additional funds will be allocated to the Subcontract in accordance with the schedule noted below until the total price of the Subcontract is funded.
- B. Subcontractor agrees to perform or have performed work on this Subcontract up to the point at which, if this Subcontract is terminated pursuant to the Termination provisions of this Subcontract, the total amount payable by Contractor (including amounts payable for Subcontracts and settlement costs) pursuant to the Termination provisions would, in the exercise of reasonable judgment by Subcontractor, approximate the total amount at the time allotted to the Subcontract. Subcontractor is not obligated to continue performance of the work beyond that point. Contractor is not obligated in any event to pay or reimburse Subcontractor more than the amount from time to time allotted to the Subcontract, anything to the contrary in the Termination provisions notwithstanding.
- C.
  1. It is contemplated for the funds presently allotted to this Subcontract will cover the work to be performed until \_\_\_\_\_.
  2. If funds allotted are considered by Subcontractor to be inadequate to cover the work to be performed until the above date, or an agreed date substituted for it, Subcontractor shall notify Contractor in writing when within the next 60 days the work will reach a point at which, if Subcontractor is terminated pursuant to the Termination provisions of the Subcontract, the total amount payable by Contractor (including amounts payable for Subcontracts and settlement costs) pursuant to the Termination article will approximate 75 percent of the total amount then allotted to the Subcontract.

3. (i) The notice shall state the estimated date when the point referred to in subparagraph C. 2 of this clause will be reached and the estimated amount of additional funds required to continue performance to the date specified in subparagraph C. 1 of this clause, or an agreed date substituted for it.  
  
(ii) Subcontractor shall, 60 days in advance of the date specified in subparagraph C. 1 of this clause, or an agreed date substituted for it, advise Contractor in writing as to the estimated amount of additional funds required for the timely performance of the Subcontract for a further period as may be specified in the Subcontract or otherwise agreed to by the parties.
  4. If, after the notification referred to in subdivision C. 3.(ii) of this clause, additional funds are not allotted by the date specified in subparagraph C. 1 of this clause, or an agreed date substituted for it, Contractor shall, upon Subcontractor's written request, terminate this Subcontract on the date or on the date set forth in the request, whichever is later, pursuant to the Termination provision.
- D. When additional funds are allotted from time to time for continued performance of the work under this Subcontract, the parties shall agree on the applicable period of Subcontract performance to be covered by these funds. The provisions of paragraphs B and C of this clause shall apply to these additional allotted funds and the substituted date pertaining to them, and the Subcontract shall be modified accordingly.
- E. If, solely by reason of Contractor failure to allot additional funds in amount sufficient for the timely performance of this Subcontract, Subcontractor incurs additional costs or if delayed in the performance of the work under this Subcontract, and if additional funds are allotted, an equitable adjustment shall be made in the price or prices (including appropriate target, billing and ceiling prices where applicable) of the work to be performed.
- F. Contractor may at any time before termination, and with the consent of Subcontractor, after notice of termination, allot additional funds for the Subcontract.
- G. The provisions of this clause with respect to termination shall in no way be deemed to limit the right of Contractor under the default article of this Subcontract. This clause shall become inoperative upon the allotment of funds for the total price of the work under this Subcontract except for rights and obligations then existing under this clause.

### **SP-31 SUSPECT/DEFECTIVE/COUNTERFEIT PARTS IDENTIFICATION**

Subcontractors shall supply products at Company Site which are not and do not contain suspect/defective/counterfeit parts. Subcontractors shall establish a Suspect/Defective/Counterfeit Parts Identification Program which provides identification, notification, and disposition of suspect/defective/counterfeit parts.

#### Procurement Documents

Subcontractor shall ensure procurement documents executed in the acquisition of products under this Subcontract include these Suspect/Defective/Counterfeit Parts Identification Program requirements and exclude identified suspect/defective/counterfeit parts from the procurement process and subsequent installation.

#### Identification

A defective part is any part which has recognized, common manufacturing flaw. A suspect/counterfeit part is any item whose characteristic or identity does not appear to be authentic and is verified to be either counterfeit or fraudulent; or is refurbished, remanufactured, or has material substitutions as determined by the following definitions:

- Counterfeit – forgery, or an imitation with the intent to deceive
- Fraudulent – deliberate intent to misrepresent the actual characteristics of an item
- Material substitution – occurs when a change to specified material of an item is made (failure by the supplier to document the material substitution is considered to be fraud, and the item then becomes suspect/counterfeit)

- Refurbished - item, which is taken part, cleaned, adjusted, inspected, or cosmetically enhanced (failure by the supplier to identify the part is refurbished is considered to be fraud, and the item then becomes suspect/counterfeit)
- Remanufactured – item, which is refurbished, physically modified, or where its subcomponents were replaced (failure by the supplier to identify the part is remanufactured is considered to be fraud, and the item then becomes suspect/counterfeit).

Subcontractor identification program shall monitor these characteristics particularly at receipt inspection and at time of installation

Notification

Immediately upon determination of a part being or suspicion of being a suspect/defective/counterfeit, notify the Contractor STR for disposition. If it is determined a suspect/defective/counterfeit part has been supplied, Contractor will then notify the local DOE Office of Inspector General.

**SP-32 VARIATION IN ESTIMATED QUANTITY**

If the quantity of a unit-priced item in this Subcontract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the Subcontract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, Subcontractor may request, in writing, an extension of item, to be received by Contractor within 10 days from the beginning of the delay, or within such further period as may be granted by Contractor before the date of final settlement of the Subcontract. Upon the receipt of a written request for an extension, Contractor shall ascertain the facts and make an adjustment for extending the completion date as, in the judgment of Contractor, is justified.

**SP-33 DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)**

Consistent with DOE guidance for contractor work force restructuring, as may be amended or supplemented from time to time, the supplier agrees it will provide a preference in hiring to an eligible employee to the extent practicable for work performed under this contract.

Per DEAR 952.226.74, *eligible employee* means a current or former employee of a contractor or subcontractor employed at a DOE Defense Nuclear Facility (1) whose position of employment has been, or will be, involuntarily terminated (except if terminated for cause), (2) who has also met the eligibility criteria contained in the DOE guidance for contractor work force restructuring, as may be amended or supplemented from time to time, and (3) who is qualified for a particular job vacancy with the Department or one of its contractors with respect to work under its contract with the Department at the time the particular position is available.

**SP-34 VALUE ENGINEERING**

During the execution of this Subcontract, Subcontractor is encouraged to develop, prepare, and submit Value Engineering Change Proposals (VECPs) for the purpose of reducing the cost of this Subcontract without impairing essential functions or characteristics specified under this Subcontract. Subcontractors may submit VECPs whenever potential savings or improvements are identified. In accordance with the procedures described below, Subcontractor shall share in any Subcontract savings realized from Contractor’s acceptance of submitted VECPs.

Definitions:

“Collateral costs” mean as used in this clause, means costs of operation, maintenance, logistic support, or government furnished property.

“Subcontractor’s development and implementation costs” means as used in this clause, means those costs Subcontractor incurs on a VECP, as well as those costs Subcontractor incurs to make the contractual changes required by Contractor acceptance of a VECP.

“Contractor cost” means as used in this clause, means those costs which result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

“Instant Subcontract savings” means as used in this clause, means the estimated reduction in Subcontractor cost of performance resulting from acceptance of the VECP, minus allowable Subcontractor development and implementation costs.

“Value Engineering Change Proposal (VECP)” means a proposal which,

1. Requires a change to this, the instant Subcontract, to implement; and
2. Results in reducing the Subcontract price or estimated cost without impairing essential functions or characteristics; provided, it does not involve a change,
  - a. In deliverable end item quantities only; or
  - b. To the Subcontract type only.

For a VECP to be considered, Subcontractor shall submit at a minimum the following information to Contractor’s Subcontract Specialist:

1. Description of the difference between the existing Subcontract requirements and the proposed, and the comparative advantages and disadvantages of each.
2. A list and analysis of the Subcontract requirements which must be changed if the VECP is accepted, including any suggested specification, or drawing revisions.
3. Detailed cost estimate including the following:
  - a. Cost estimate for the existing Subcontract requirements compared to Subcontractor’s cost estimate for the proposed changes.
  - b. Cost estimate for Subcontractor development, submittal, and implementation of the proposed changes, and
  - c. Cost estimate for Contractor may incur in implementation of the VECP, such as evaluation, test, operation, and support costs. Subcontractor’s profits shall not be considered part of the cost.
4. A prediction of any effects the proposed change would have on collateral costs of operation, maintenance, logistic support, or government furnished property.
5. Statement of time by which a Change Order adopting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the Subcontract completion schedule.

Contractor shall process VECPs expeditiously but shall not be liable for any delay in acting upon a VECP. Subcontractor may withdraw any VECP, in whole or in part, at any time before it is accepted. If the VECP is not accepted, Contractor shall notify Subcontractor in writing, explaining the reasons for rejection.

Contractors may accept a VECP, in whole or in part, only through the issuing of a Change Order to the Subcontract. Until a Change Order is issued on a VECP, Subcontractor shall remain obligated to perform in accordance with the existing Subcontract Documents. Contractor’s decision to accept or reject all or part of any VECP shall be final and not subject to the General Provision titled “Disputes”.

For VECPs which are accepted by Contractor the Subcontract price shall be adjusted in accordance with the following:

1. The Subcontract price shall be reduced by an amount equal to 45% of the estimated “Net Savings”.
2. The “Net Savings” is the estimated reduction in Subcontractor’s cost of performance resulting from acceptance of the VECP; minus the estimated cost for Subcontractor to development, submit and implement the VECP, minus the Contractor’s estimated costs for developing and implementing the VECP.

If Contractor and Subcontractor are unable to negotiate the amount of the “Net Savings”, Contractor may unilaterally accept the VECP and reduce the price of this Subcontract. Any such unilateral reduction shall be subject to the General Provision titled “Disputes”.

Subcontractor is not entitled to share in either collateral or future Subcontract savings. The term “collateral savings”

means those measurable net reductions in operating costs, maintenance, logistic support, or government furnished property resulting from the VECP. The term “future Subcontract savings” means those reductions in the cost of performance of future construction Subcontracts for essentially the same item related to a VECP submitted by Subcontractor.

Data:

Subcontractor may restrict Contractor’s right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

“This data, furnished under the Value Engineering provision of Subcontract \_\_\_\_\_, shall not be disclosed, or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate the value engineering change proposal submitted. This restriction does not limit Contractor’s right to use information contained in this data if it has been obtained or is otherwise available from Subcontractor or from another source without limitations.”

If a VECP is accepted, Subcontractor hereby grants Contractor and the Government “unlimited rights” in the VECP and supporting data, except with respect to data qualifying and submitted as “limited rights” technical data. Contractor and the Government shall have the rights specified in the Subcontract modification implementing the VECP and shall appropriately mark the data. (The terms “unlimited rights” and limited rights” are defined in Part 27 of the Federal Acquisition Regulations.)

*(Include the following in Subcontracts for design/build projects)*

**SP-35 CONTRACTOR RIGHTS IN DESIGN DOCUMENTS (UNLIMITED)**

Contractor shall have unlimited rights, in all drawings, designs, specifications, notes, and other works developed in the performance of this Subcontract, including the right to use same on any other Contractor or Government design or construction without additional compensation to the Subcontractor. Subcontractor hereby grants to Contractor or the Government a paid-up license throughout the world to all such works to which Subcontractor may assert or establish any claim under design patent or copyright laws. Subcontractor for a period of three (3) years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contractor.

*(Procurement Representatives should tailor this provision to be consistent with ordering procedures for individual unit price Subcontracts. For example, some unit price construction Subcontracts may adopt the Task Order process included in Procurement Guide 98-24, Section 3.6.1)*

**SP-36 TASK ORDER RELEASE PROCEDURE**

Any work to be performed under this Subcontract shall be ordered by issuance of a Task Order Release in accordance with the following:

- A. The STR and the Contractor’s Subcontracts Specialist are the only personnel authorized to issue Task Order Releases under this Subcontract.
- B. After a task is identified by the STR, the STR schedules a walk-down and contacts all individuals required to perform walk-down. The STR and the Subcontractor shall agree upon the applicable items and quantities of work listed on the Price Schedule (See Exhibit C). All quantities and items not covered by the Subcontract will be agreed upon at the completion of the walk-down and documented within the Task Order Release. Additional pricing for items not already included in the Price Schedule are negotiated separately as needed by Contractor’s Subcontracts Specialist.
- C. Each Task Order Release will include a Task Order Release number, identify the specific task to be accomplished, identify the applicable items of work listed on the Price Schedule and quantities, and the completion date. Each Task Order will contain a Firm-Fixed Price from which payment will be made and will be signed by the STR and/or the Subcontracts Specialist, and the Subcontractors representative.

**SP-37 SUBCONTRACTOR SUBMITTALS**

All Subcontractor document submittals to Company or Company’s designated design agency for information or approval shall be prepared and submitted in electronic PDF format in accordance with the scope of work. This includes but is not limited to drawings, specifications, procedures, plans, manuals, quality control documents, etc.

These submittals shall be sent to the following e-mail address (*VendorDocuments@srs.gov*).

The subject line of the email shall include the Purchase Order/Sales Agreement/Subcontract Number.

The body of the email shall include:

1. Name of Procurement Representative
2. Purchase Order/Sales Agreement/Subcontract Number
3. Subcontractor Transmittal Number
4. Subcontractor Submittal(s) (in PDF format for each document), note multiple PDF files may be combined into one ZIP file to reduce transmittal size. File(s) cannot exceed 30MB.
5. A transmittal sheet (in PDF format) which lists all Subcontractor documents which are included as part of this transmittal.
6. Subcontractor contact information which can be used to resolve transmittal issues.
7. Re-submittal Requirements Only:

Re-submittals of documents must include the SRS document number. This document number can be found on the cover page status strip formatted as follows: PO#-XXXX-Y-ZZZ.

Please reference only the following parts of the SRS document number from the cover page status strip in your re-submittal: "PO#-XXXX."

Any corrections made to documents submitted as a requirement of this Subcontract shall be made by either:

1. Revision of the document, with appropriate reviews and signatures. When re-submitting documents, the entire document must be revised, given a new revision number and all pages of the document must be re-submitted, not just the pages being revised.
2. Drawing a single line through the incorrect information and initialing and dating the correction by an authorized representative.
3. Corrections by any other means will not be accepted.
4. Documents shall be legible, and the PDF file shall be generated to in the correct size and of sufficient quality to print at actual scale (i.e., an "E" size drawing shall be generated in the "E" format not 8.5" x 11").

*(Include the following in Subcontracts with a dollar value greater than \$100,000)*

**SP-38 SUSTAINABLE ACQUISITION PROGRAM**

- A. Pursuant to Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance, the DOE is committed to managing its facilities in an environmentally preferable and sustainable manner which will promote the natural environment and protect the health and well-being of its Federal employees and subcontractor service providers. In the performance of work under this contract, the subcontractor shall provide its services in a manner which promotes the natural environment, reduces greenhouse gas emissions, and protects the health and well-being of Federal employees, contract service providers and visitors using the facility.
- B. Green purchasing or sustainable acquisition has several interacting initiatives. The subcontractor must comply with initiatives which are current as of the contract award date. DOE may require compliance with revised initiatives from time to time. The subcontractor may request an equitable adjustment to the terms of its contract using the procedures in the Changes clause of the contract. The initiatives important to these Orders are explained on the following Government or Industry Internet Sites:
  - (1) Recycled Content Products are described at <http://epa.gov/cpg>
  - (2) Biobased Products are described at <http://www.biopreferred.gov/>
  - (3) Energy efficient products are at <http://energystar.gov/products> for Energy Star products
  - (4) Energy efficient products are at <http://www.femp.energy.gov/procurement> for FEMP designated products
  - (5) Environmentally preferable and energy efficient electronics including desktop computers, laptops and

monitors are at <http://www.epeat.net> the Electronic Products Environmental Assessment Tool (EPEAT) the Green Electronics Council site

- (6) Greenhouse gas emission inventories are required, including Scope 3 emissions which include subcontractor emissions. These are discussed at Section 13 of Executive Order 13514 which can be found at <http://www.archives.gov/federal-register/executive-orders/disposition.html>
  - (7) Non-Ozone Depleting Alternative Products are at <http://www.epa.gov/ozone/strathome.html>
  - (8) Water efficient plumbing products are at <http://epa.gov/watersense>.
- C. The clauses at FAR 52.223-2, Affirmative Procurement of Biobased Products under Service and Construction Contracts, 52.223-15, Energy Efficiency in Energy Consuming Products, and 52.223-17 Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts, require the use of products which have biobased content, are energy efficient, or have recycled content. To the extent of the services provided by the subcontractor require provision of any of the above types of products, the subcontractor must provide the energy efficient and environmentally sustainable type of product unless the type of product—
- (1) Is not available;
  - (2) Is not life cycle cost effective or does not exceed 110% of the price of alternative items if life cycle cost data is unavailable (EPEAT is an example of lifecycle costs which have been analyzed by DOE and found to be acceptable at the silver and gold level);
  - (3) Does not meet performance needs; or,
  - (4) Cannot be delivered in time to meet a critical need.
- D. In the performance of this contract, the subcontractor shall comply with the requirements of Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management, (<http://www.epa.gov/greeningepa/practices/eo13423.htm>) and Executive Order 13514, Federal Leadership in Environmental, Energy, and Economic Performance (<http://www.archives.gov/federal-register/executive-orders/disposition.html>). The subcontractor shall also consider the best practices within the DOE Acquisition Guide, Chapter 23, Acquisition Considerations Regarding Federal Leadership in Environmental, Energy, and Economic Performance. This guide includes information concerning recycled content products, biobased products, energy efficient products, water efficient products, alternative fuels and vehicles, non-ozone depleting substances and other environmentally preferable products and services. This guide is available on the Internet at: <http://management.energy.gov/documents/AcqGuide23pt0Rev1.pdf>.
- E. In complying with the requirements of paragraph (c) of this clause, the subcontractor(s) shall coordinate its activities with and submit required reports through the Environmental Sustainability Coordinator or equivalent position. Reporting under this paragraph and paragraphs (f) and (g) of this clause is only required if the contract or subcontract offers subcontracting opportunities for energy efficient and environmentally sustainable products or services exceeding \$100,000 in any contract year.
- F. The subcontractor shall prepare and submit performance reports, if required, using prescribed DOE formats, at the end of the Federal fiscal year, on matters related to the acquisition of environmentally preferable and sustainable products and services. This is a material delivery under the contract. Failure to perform this requirement may be considered a failure, endangering performance of this contract and may result in termination for default.
- G. These provisions shall be flowed down only to first tier subcontracts exceeding the simplified acquisition threshold support operation of the DOE facility and offer significant subcontracting opportunities for energy efficient or environmentally sustainable products or services. The Subcontractor, if subcontracting opportunities for sustainable and environmentally preferable products or services exceed the threshold in paragraph (e) of this clause, will comply with the procedures in paragraphs (c) through (e) of this clause regarding the collection of all data necessary to generate the reports required under paragraphs (c) through (e) of this clause, and submit the reports directly to the Prime Contractor's Environmental Sustainability Coordinator at the supported facility. The Subcontractor will advise the subcontractor if it is unable to procure energy efficient and environmentally sustainable items and cite which of the reasons in paragraph (c) of this clause apply. The reports may be submitted at the conclusion of the subcontract term provided the subcontract delivery term is not multi-year in nature. If the delivery term is multi-year, the Subcontractor shall report its accomplishments for each Federal fiscal year in a manner and at a time or times acceptable to both parties. Failure to comply with these reporting requirements may be considered a breach of contract with attendant consequences.

*(Include the following in Subcontracts with a dollar value greater than \$100,000)*

**SP-39 EXECUTIVE ORDER 13423, STRENGTHENING FEDERAL ENVIRONMENTAL, ENERGY, AND TRANSPORTATION MANAGEMENT [OCT 2010]**

Since this contract involves subcontractor operation of Government-owned facilities and/or motor vehicles, the provisions of Executive Order 13423 are applicable to the subcontractor to the same extent they would be applicable if the Government were operating the facilities or motor vehicles. Information on the requirements of the Executive Order may be found at <http://www.archives.gov/federal-register/executive-orders/>.

*(If applicable)*

**SP-40 SHIPMENT OF RADIOLOGICAL AND NUCLEAR MATERIALS**

Radiological and nuclear purchase order numbers will begin with “rad” and “nuc” respectively. Failure to list the order number and all necessary information on the outside of the package or container may result in the material being returned to the seller. If the PO is for radiological or nuclear material, confirm with the procurement representative an understanding of the above requirements before shipment.

*The following is applicable in subcontracts which may involve making unclassified information about nuclear technology available to sensitive foreign nations.*

**SP-41 DEAR 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS (MAR 2011)**

- A. In connection with any activities in the performance of this subcontract, the Subcontractor agrees to comply with the “Sensitive Foreign Nations Controls” requirements attached to this subcontract, relating to those countries, which may from time to time, be identified to the Subcontractor by written notice as sensitive foreign nations. The Subcontractor shall have the right to terminate its performance under this subcontract upon at least 45 days prior written notice to Company procurement representative if the Subcontractor determines it is unable, without substantially interfering with its polices or without adversely impacting its performance to continue performance of the work under this subcontract as a result of such notification. If the Subcontractor elects to terminate performance, the provisions of this subcontract regarding Termination for the Convenience of shall apply.
- B. The provisions of this clause shall be included in any of Subcontractor’s contracts/agreements with a lower-tier supporting Subcontractor’s performance of this subcontract which may involve making unclassified information about nuclear technology available to sensitive foreign nations.