

PART V**SPECIAL TERMS AND CONDITIONS**

*[Delete and revise these provisions in the text, **NOT THE TABLE. CLAUSES WILL AUTOMATICALLY RENUMBER THEMSELVES WHEN YOU DELETE ONE.** To update the table, right click within the table, select Update Field and select "Update Entire Table" and OK; or place cursor above the table then arrow down until your cursor is within the table and hit F9. Finally, delete these instructions **AND** all italicized BLUE text.]*

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**PART V
SPECIAL TERMS AND CONDITIONS**

1. RESOLUTION OF CONFLICTING CONDITIONS (OCT 2004)

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award for guidance.

Alternate 1

2. PAYMENT PROCEDURES – ADVANCES THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM (OCT 2004)

[Preferred method for nonprofit organizations, State and local governments, and Institutions of Higher Education. Use for awards to for-profit organizations, if advance payments are authorized.]

- a. Method of Payment. Payment will be made by advances through the Department of Treasury's ASAP system.
- b. Requesting Advances. Requests for advances must be made through the ASAP system. You may submit requests as frequently as required to meet your needs to disburse funds for the Federal share of project costs. If feasible, you should time each request so that you receive payment on the same day that you disburse funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close as is administratively feasible to actual disbursements.
- c. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.
- d. Payments. All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.

Alternate 2

3. PAYMENT PROCEDURES – REIMBURSEMENT THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM (OCT 2004)

[Alternate method for nonprofit organizations, State and local governments, and Institutions of Higher Education. This is one of two preferred methods of payment for awards to for-profit organizations. The Contracting Officer will specify which method applies in the award document.]

- a. Method of Payment. Payment will be made by reimbursement through the Department of Treasury's ASAP system.
- b. Requesting Reimbursement. Requests for reimbursements must be made through the ASAP system. Your requests for reimbursement should coincide with your normal billing pattern, but not more frequently than every two weeks. Each request must be limited to the amount of disbursements made for the federal share of direct project costs and the proportionate share of allowable indirect costs incurred during that billing period.
- c. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.
- d. Payments. All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.

Alternate 3

**4. PAYMENT PROCEDURES – REIMBURSEMENT THROUGH THE
AUTOMATED CLEARING HOUSE (ACH) VENDOR INQUIRY PAYMENT
ELECTRONIC REPORTING SYSTEM (VIPERS) (OCT 2004)**

[Preferred method for ACH payments. This is one of two preferred methods of payment for awards to for-profit organizations. The Contracting Officer will specify which method applies in the award document. Use for awards to other recipients if there are special award conditions that require the reimbursement method of payment]

- a. Method of Payment. Payment will be made by reimbursement through ACH.
- b. Requesting Reimbursement. Requests for reimbursements must be made electronically through Department of Energy's Oak Ridge Financial Service Center (ORFSC) VIPERS. To access and use VIPERS, you must enroll at <https://finweb.oro.doe.gov/vipers.htm>. Detailed instructions on how to enroll are provided on the web site.

For non-construction awards, you must submit a Standard Form (SF) 270, "Request for Advance or Reimbursement" at <https://finweb.oro.doe.gov/vipers.htm> and attach a file containing appropriate supporting documentation. The file attachment must show the total federal share claimed on the SF 270, the non-federal share claimed for the billing period if cost sharing is required, and cumulative expenditures to date (both Federal and non-Federal) for each of the following categories: salaries/wages and fringe benefits; equipment; travel; participant/training support costs, if any; other direct costs, including subawards/contracts; and indirect costs. For construction awards, you must submit a SF 271, "Outlay Report and Request for Reimbursement for Construction Programs," through VIPERS.

- c. Timing of submittals. Submittal of the SF 270 or SF 271 should coincide with your normal billing pattern, but not more frequently than every two weeks. Requests for reimbursement must

be limited to the amount of disbursements made during the billing period for the federal share of direct project costs and the proportionate share of any allowable indirect costs incurred during that billing period.

d. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.

e. Payments. The DOE approving official will approve the invoice as soon as practicable but not later than 30 days after your request is received, unless the billing is improper. Upon receipt of an invoice payment authorization from the DOE approving official, the ORFSC will disburse payment to you. You may check the status of your payments at the VIPER web site. All payments are made by electronic funds transfer to the bank account identified on the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881) that you filed.

Alternate 4

5. PAYMENT PROCEDURES - REIMBURSEMENT THROUGH THE AUTOMATED CLEARING HOUSE (ACH) (OCT 2004)

[Alternate ACH method of payment. May be used if recipient cannot access VIPERS.]

a. Method of Payment. Payment will be made by reimbursement through ACH.

b. Requesting Reimbursement. For non-construction awards, you must submit a Standard Form (SF) 270, "Request for Advance or Reimbursement" and appropriate supporting documentation to the address listed below. The supporting documentation must show the total federal share claimed on the SF 270, the non-federal share claimed for the billing period if cost sharing is required, and cumulative expenditures to date (both Federal and non-Federal) for each of the following categories: salaries/wages and fringe benefits; equipment; travel; participant/training support costs, if any; other direct costs, including subawards/contracts; and indirect costs. For construction awards, you must submit a SF 271, "Outlay Report and Request for Reimbursement for Construction Programs," to:

U.S. Department of Energy
Oak Ridge Financial Service Center
P.O. Box (TBD)
Oak Ridge, TN 37831

c. Timing of submittals. Submittal of the SF 270 or SF 271 should coincide with your normal billing pattern, but not more frequently than every two weeks. Requests for reimbursement must be limited to the amount of disbursements made during the billing period for the federal share of direct project costs and the proportionate share of any allowable indirect costs incurred during that billing period.

d. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates,

refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.

e. Payments. The DOE approving official will approve the invoice as soon as practicable but not later than 30 days after your request is received, unless the billing is improper. Upon receipt of an invoice payment authorization from the DOE approving official, the DOE Oak Ridge Financial Service Center (ORFSC) will disburse payments to you. All payments are made by electronic funds transfer to the bank account identified on the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881) that you filed.

Alternate 1

6. COST SHARING (OCT 2004)

[Applies if cost sharing is required.]

- a. Notwithstanding the Recipient's cost share described below in paragraph b, you must cost share a minimum of _____ percent of the total allowable Project Costs (Total allowable Project Costs are the sum of the Government share and the Recipient share of allowable project costs). Your cost share must come from non-Federal sources. By accepting federal funds under this award, you agree that you are liable for your percentage share of the total allowable Project Costs incurred even if the project is terminated early or is not funded to its completion.
- b. Total Estimated Project Cost is the sum of the Government share and Recipient share of the estimated project costs. This cost is shared as follows:

Budget Period No.	Budget Period Start Date	Government Share \$	/	%	Recipient Share \$	/	%	Total Estimated Cost
1								
2								
3								
*								

Total Project:

- c. If you discover that you may be unable to provide cost sharing of at least the amount identified in paragraph b of this article, you should immediately provide written notification to the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award indicating whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost sharing will be secured.
- d. You must maintain records of all project costs that you claim as cost sharing, including in-kind costs, as well as records of costs to be paid by DOE/NNSA. Such records are subject to audit.

e. Failure to provide the cost sharing required in paragraphs a and b may result in the subsequent recovery by DOE/NNSA of some or all the funds provided under the award.

Alternate 2

7. COST SHARING, WHEN DOE PAYS FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC) CONTRACTOR'S COSTS DIRECTLY TO FFRDC (OCT 2004)

[Applies if a DOE FFRDC contractor participates in the project and DOE pays the FFRDC costs directly]

a. Notwithstanding the Recipient's cost share described below in paragraph b, you must cost share a minimum of _____% of the total allowable Project Costs (Total allowable Project Costs are the sum of the Government share, including FFRDC contractor costs, and the Recipient share of allowable project costs). Your cost share must come from non-Federal sources. By accepting federal funds under this award, you agree that you are liable for your percentage share of the total allowable Project Costs incurred even if the project is terminated early or is not funded to its completion.

b. The DOE/NNSA FFRDC contractor cost is not included in the total Approved Budget for this award, because DOE/NNSA will pay the DOE/NNSA FFRDC contractor portion of the effort under an existing DOE/NNSA contract. Total Estimated Project Cost is the sum of the Government share, including FFRDC contractor costs, and the Recipient share of estimated project costs. This cost is shared as follows:

Budget Period No.	Budget Period Start Date	Government Share, including FFRDC Cost \$ / %	Recipient Share \$ / %	Total Estimated Cost
1				
2				
3				
*				

Total Project:

c. If you discover that you may be unable to provide cost sharing of at least the amount identified in paragraph b of this article, you should immediately provide written notification to the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award indicating whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost sharing will be secured.

d. You must maintain records of all project costs that you claim as cost sharing, including in-kind costs, as well as records of costs to be paid by DOE/NNSA. Such records are subject to audit.

e. Failure to provide the cost sharing required in paragraphs a and b may result in the subsequent recovery by DOE/NNSA of some or all the funds provided under the award.

8. INCREMENTAL FUNDING (OCT 2004)

[Applies if budget period is not fully funded]

This budget period is funded on an incremental basis. The maximum obligation of the DOE/NNSA is limited to the amount shown in Block 16.b.(3) "CUMULATIVE DOE OBLIGATIONS Project Period to Date" on the Notice of Financial Assistance Award. You are not obligated to continue performance of the project beyond the total amount shown in Block 16.b.(3) and your pro rata share of the project costs, if cost sharing is required. Subject to the availability of additional funds, DOE anticipates obligating the total amount shown in Block 16.a.(4) for the current budget period.

9. PRE-AWARD COSTS (OCT 2004)

[Applies if the Contracting Officer approves pre-award costs for a period greater than the 90 calendar day period immediately preceding the date of the award.]

You are entitled to reimbursement for costs incurred on or after (insert month, day, year), as authorized by the pre-award costs letter dated (insert date of approval letter), if such costs are reimbursable under this agreement if incurred after the agreement is awarded.

10. USE OF PROGRAM INCOME (OCT 2004)

[Three alternates. Generally, Alternate 1 applies to awards supporting research and Alternate 3 applies to other discretionary awards.]

Alternate 1 (Addition)

If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and use it to further eligible project objectives.

Alternate 2 (Cost Sharing)

If you earn program income during the project period as a result of this award, you may use the program income to meet your cost sharing requirement.

Alternate 3 (Deduction)

If you earn program income during the project period as a result of this award, you must deduct the program income from the total allowable project costs to determine the net allowable costs on which the Federal share is based.

11. STATEMENT OF FEDERAL STEWARDSHIP (OCT 2004)

DOE/NNSA will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting

site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to insure that the award objectives have been accomplished.

12. STATEMENT OF SUBSTANTIAL INVOLVEMENT

[Applies to cooperative agreements only – Delete if award is a grant.]

[The program announcement may include a Statement of Substantial Involvement that will be included in cooperative agreements awarded under that announcement. If the announcement does not include such a statement, the Contracting Officer and DOE/NNSA Project Director will negotiate a specific Statement of Substantial Involvement for each cooperative agreement prior to award.] (The example provided here is a good reference for creating the Statement of Substantial Involvement.)

a. DOE anticipates having substantial involvement during the project period, through technical assistance, advice, intervention, integration with other awardees performing related activities, and technical transfer activities. The recipient's responsibilities are listed in paragraph b and DOE's responsibilities are listed in paragraph c.

b. Recipient's responsibilities. The recipient is responsible for:

Performing the activities supported by this award, including providing the required personnel, facilities, equipment, supplies and services;

- (1) Defining approaches and plans, submitting the plans to DOE for review, and incorporating DOE's comments;
- (2) Managing and conducting the project activities, including coordinating with a DOE management and operating (M&O) contractor on activities performed under the M&O contract that are related to the project;
- (3) Attending annual program review meetings and reporting project status;
- (4) Submitting technical reports as stated in the *Federal Assistance Reporting Checklist*, and incorporating DOE comments; and
- (5) Presenting the project results at appropriate technical conferences or meetings as directed by the DOE Project Officer.

c. DOE responsibilities. DOE is responsible for:

- (1) Reviewing in a timely manner project plans, including technology transfer plans, and redirecting the work effort if the plans do not address critical programmatic issues;
- (2) Conducting annual program review meetings to ensure adequate progress and that the work accomplishes the program and project activities. Redirecting work or shifting work emphasis, if needed;
- (3) Promoting and facilitating technology transfer activities, including disseminating program results through presentations and publications; and

- (4) Serving as scientific/technical liaison between awardees and other program or industry staff.

d. There are limitations on recipient and DOE responsibilities and authorities in the performance of the project activities. Performance of the project activities must be within the scope of the Statement of Objectives, the terms and conditions of the Cooperative Agreement, and the funding and schedule constraints.

13. SITE VISITS (OCT 2004)

DOE/NNSA's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide and must require your subawardees to provide reasonable facilities and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

14. REPORTING REQUIREMENTS (OCT 2004)

a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to this award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

b. Dissemination of scientific/technical reports. Scientific/technical reports submitted under this award will be disseminated on the Internet via the DOE Information Bridge (www.osti.gov/bridge), unless the report contains patentable material, protected data or SBIR/STTR data. In addition, these reports must not contain any limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release. Citations for journal articles produced under the award will appear on the DOE Energy Citations Database (www.osti.gov/ecd).

15. PUBLICATIONS (OCT 2004)

a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy [National Nuclear Security Administration] [add name(s) of other agencies, if applicable] under Award Number(s) [enter the award number(s)]."

Disclaimer: “This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”

16. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS (OCT 2004)

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

17. INTELLECTUAL PROPERTY PROVISIONS (OCT 2004)

[The standard DOE financial assistance intellectual property provisions applicable to the various types of recipients are located at http://www.gc.doe.gov/techtrans/sipp_matrix.html. Click here for provisions.]

The intellectual property provisions applicable to this award are provided as an attachment to this award or are referenced in Block 19 of the Notice of Financial Assistance Award.

18. NATIONAL SECURITY: CLASSIFIABLE RESULTS ORIGINATING UNDER AN AWARD (OCT 2004)

[Applies if the award is for research]

a. This award is intended for unclassified, publicly releasable research. You will not be granted access to classified information. DOE/NNSA does not expect that the results of the research project will involve classified information. Under certain circumstances, however, a classification review of information originated under the award may be required. The Department may review research work generated under this award at any time to determine if it requires classification.

b. Executive Order 12958 (60 Fed. Reg. 19,825 (1995)) states that basic scientific research information not clearly related to the national security shall not be classified. Nevertheless, some information concerning (among other things) scientific, technological, or economic matters relating to national security or cryptology may require classification. If you originate information during the course of this award that you believe requires classification under this Executive order, you must promptly:

1. Notify the DOE Project Officer identified in Block 11 and the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award.
 2. Submit the information by registered mail directly to the Director, Office of Classification and Information Control, SO-10.2; U.S. Department of Energy; P.O. Box A; Germantown, MD 20875-0963, for classification review.
 3. Restrict access to the information to the maximum extent possible until you are informed that the information is not classified, but no longer than 30 days after receipt by the Director, Office of Classification and Information Control.
- c. If you originate information concerning the production or utilization of special nuclear material (i.e., plutonium, uranium enriched in the isotope 233 or 235, and any other material so determined under section 51 of the Atomic Energy Act) or nuclear energy, you must:
1. Notify the DOE Project Officer identified in Block 11 and the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award.
 2. Submit the information by registered mail directly to the Director, Office of Classification and Information Control, SO-10.2; U.S. Department of Energy; P. O. Box A; Germantown, MD 20875-0963 for classification review within 180 days of the date the recipient first discovers or first has reason to believe that the information is useful in such production or utilization.
 3. Restrict access to the information to the maximum extent possible until you are informed that the information is not classified, but no longer than 90 days after receipt by the Director, Office of Classification and Information Control.
- d. If DOE determines any of the information requires classification, you agree that the Government may terminate the award by mutual agreement in accordance with 10 CFR 600.25(d). All material deemed to be classified must be forwarded to the DOE, in a manner specified by DOE.
- e. If DOE does not respond within the specified time periods, you are under no further obligation to restrict access to the information.

19. CONTINUATION APPLICATION AND FUNDING (OCT 2004)

[\[Applies to continuing awards\]](#)

- a. Continuation Application. A continuation application is a non-competitive application for an additional budget period within a previously approved project period. At least 90 days before the end of each budget period, you must submit to the DOE Project Officer identified in Block 11 and the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award your continuation application, which includes the following information:

1. A report on your progress towards meeting the objectives of the project, including any significant findings, conclusions, or developments, and an estimate of any unobligated balances remaining at the end of the budget period. If the remaining unobligated balance is estimated to exceed 20 percent of the funds available for the budget period, explain why the excess funds have not been obligated and how they will be used in the next budget period.
2. A detailed budget and supporting justification for the upcoming budget period if additional funds are requested, a reduction of funds is anticipated, or a budget for the upcoming budget period was not approved at the time of award.
3. A description of your plans for the conduct of the project during the upcoming budget period, if there are changes from the DOE approved application.

b. Continuation Funding. Continuation funding is contingent on (1) availability of funds; (2) satisfactory progress towards meeting the objectives of your approved application; (3) submittal of required reports; and (4) compliance with the terms and conditions of the award.

20. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS (OCT 2004)

[Applies if a NEPA compliance review is required and if it has not been completed prior to award]

You are restricted from taking any action using Federal funds, which would have an adverse affect on the environment or limit the choice of reasonable alternatives prior to DOE/NNSA providing either a NEPA clearance or a final NEPA decision regarding this project. Prohibited actions include, but are not limited to, demolition of existing buildings, site clearing, ground breaking, construction, and/or detailed design. This restriction does not preclude you from *[Insert activities that can be performed before the NEPA clearance or decision is completed]*.

[Add following paragraph to construction awards.]

You must submit an environmental evaluation report/evaluation notification form addressing NEPA issues prior to DOE/NNSA initiating the NEPA process.

21. LOBBYING RESTRICTIONS (OCT 2004)

[This paragraph applies if funds made available under the Interior Acts are obligated to the award].

By accepting funds under this award, you agree that none of the funds obligated on the award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulation.

[This paragraph applies if funds made available under Energy and Water Acts are obligated to the award.]

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

22. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS (OCT 2004)

[Applies if funds made available under the Interior and Related Agencies Act are obligated to the award.]

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

23. COMPLIANCE WITH BUY AMERICAN ACT (OCT 2004)

[Applies if funds made available under the Interior and Related Agencies Act are obligated to the award.]

By accepting funds under this award, you agree to comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a - 10c, popularly known as the "Buy American Act"). You should review the provisions of the Act to ensure that expenditures made under this award are in accordance with it.

24. ANNUAL INDIRECT COST PROPOSAL AND RECONCILIATION (OCT 2004)

a. In accordance with the applicable cost principles, you must submit an annual indirect cost proposal, reconciled to your financial statements, within six months after the close of each fiscal year, unless you have negotiated a predetermined or fixed indirect rate(s), or fixed amount for indirect or facilities and administration (F&A) costs.

b. You should submit your annual indirect cost proposal directly to the cognizant agency for negotiating and approving indirect costs. If DOE is the cognizant agency, send your proposal to the Cognizant Department of Energy Office (CDO). If you do not have a cognizant agency or if you do not know your DOE CDO, contact the DOE Award Administrator identified in Block 12 of the Notice of Financial Assistance Award.

25. PRESERVATION OF OPEN COMPETITION AND GOVERNMENT NEUTRALITY TOWARDS CONTRACTORS' LABOR RELATIONS ON FEDERALLY FUNDED CONSTRUCTION PROJECTS (OCT 2004)

[Applicable if the objective of the award is to construct, rehabilitate, alter, convert, extend, or repair buildings, highways, or make other improvements to real property.]

a. Unless in conflict with State or local laws, you must ensure that bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this agreement, or pursuant to a subaward to this agreement, do not:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or

2. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

b. The term “construction contract” as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

c. Nothing in this provision prohibits bidders, offerors, contractors or subcontractors from voluntarily entering into agreements with labor organizations.

26. INL ACCESS SAFETY

[The INL Access Safety term is applicable when on-site work is required and the work involves industrial, safety and/or health hazards. Coordinate with designated COR to make determination. If the on-site work involves these hazards, contact the Quality and Safety Division Director.]

The NE-ID Idaho National Laboratory (INL), Advanced Mixed Waste Treatment Project (AMWTP), Spent Nuclear Fuel Disposition and Storage Project (SNFDSP) and Idaho Completion Project (ICP) contractors (hereafter referred as site contractors) are responsible for the safe conduct of operations at the INL and within facilities they occupy or control. Your work at the INL and any of these facilities must be performed in a manner that is consistent with the procedures established by these contractors that apply to site access controls, safeguards and security requirements, and the safe conduct of work. You will develop an interface agreement with the appropriate site contractor, subject to NE-ID approval, on matters not governed by these procedures or where deviation from these procedures is necessary. You will also work cooperatively with the site contractors to clearly: 1) define, demarcate and document the boundaries within which work will be conducted; and, 2) define and document the respective roles and responsibilities with the site contractor relative to managing that work control boundary. Unless otherwise agreed, site contractor policies and procedures shall apply to the conduct of work outside your work boundary and your policies and procedures shall govern within that boundary. You are responsible for the training and safety of individuals working for you and are obligated to ensure their fitness for duty. You will notify the NE-ID Contracting Officer's Representative of work activities and future work plans. You must also coordinate these activities and plans with the appropriate site contractor authority for the area in which you will be performing work and seek the approval of that authority prior to commencing work.

The INL has adopted the principles and core functions of Integrated Safety Management and the Voluntary Protection Program. Work performed by you or your subcontractors at the INL will be appropriately planned and controlled commensurate with the risks and hazards involved. At a minimum, your system for managing and controlling work shall include:

- 1) Definition of the scope of the work to be performed;
- 2) Identification of the hazards to be expected in the performance of the work, including hazards of the work and of the work environment;
- 3) Requirements and provisions for mitigation of those hazards;
- 4) Provisions for worker training in the identified hazards and controls;
- 5) A means for controlling the work to ensure that the effort remains within scope and that hazard mitigations are maintained; and,
- 6) Provisions for active worker involvement in job safety and fitness for duty

Normal work hours at the INL are from 7:00 A.M. to 5:30 P.M. on Monday through Thursday. Normal work hours at the Idaho Falls facilities are from 7:00 A.M. to 5:00 P.M. on Monday through Thursday and on alternating Fridays. Work outside of these hours shall require advance notification to, and approval from, the appropriate site contractor authority.

The Department of Energy (DOE) has primary responsibility for safety and health oversight only if you have a contract directly with NE-ID. NE-ID INL will conduct oversight within INL site areas, including all site areas beyond facility boundaries. NE-ID ICP will conduct oversight within ICP areas. The site contractors and all INL employees have the right to stop any activity, if continuation of that activity would either be considered an imminent danger situation or have a negative impact on the environment, safety or health of the site, the workers or the public. It shall be mandatory in the event of any such "stop work," that all work shall cease pending NE-ID notification and resolution of the issue.

An imminent danger situation exists when any condition or practice could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through enforcement procedures.

A negative impact on the environment, safety or health of site workers or the public includes situations that result in unplanned releases to the environment, uncontrolled exposures to workers or the public, or programmatic failures that could result in these situations.

NE-ID will resolve any disagreement between you and the site contractors regarding the application of these requirements.

Failure to meet these minimum safety expectations will require the development and submittal of a corrective action plan to the NE-ID Contracting Officer and Contracting Officer's Representative. Continued failures may result in further adverse action. This clause does not affect all other obligations you have under law or contract to conduct activities in a manner that is safe to people and the environment.

27. RESERVED

[Use this space if an additional, non-standard clause is necessary per the Contracting Officer. Examples of additional, non-standard clauses are Waiver of Indirect Rates and Indirect Reimbursement, Subcontract Approvals, or Conditional Award. Do NOT delete the header labeled "RESERVED." Instead, simply type over the word "RESERVED" with the appropriate name for this header as it relates to this specific clause.]