

price contract for construction or architect-engineer services or any combination thereof to the same firm where those contracts will be performed at the same site.

(iii) The contractor shall not employ the construction subcontractor or an affiliate to inspect the firm's work. The contractor shall assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work and the authority of the inspector are clearly defined.

(i) *Contractor-Affiliated Sources.* Purchase or transfer of equipment, materials, supplies, or services from a contractor-affiliated source shall be treated in accordance with 48 CFR (DEAR) 970.7105.

(j) *Contractor-Subcontractor Relationship.* The obligations of the contractor under paragraph (a) of this clause, including the development of the purchasing system and methods, and purchases made pursuant thereto, shall not relieve the contractor of any obligation under this contract (including, among other things, the obligation to properly supervise, administer, and coordinate the work of subcontractors). Subcontracts shall be in the name of the contractor, and shall not bind or purport to bind the Government.

(k) *Government Property.* The contractor's purchasing system and methods for the identification, inspection, maintenance, protection, and disposition of Government property shall conform with the policies and principles of 48 CFR (FAR) part 45, 48 CFR (DEAR) part 945, the Federal Property Management Regulations, the DOE Property Management Regulations, and their contracts.

(l) *Indemnification.* No subcontractor may be otherwise indemnified except with the prior approval of the Procurement Executive.

(m) *Leasing of Motor Vehicles.* Contractors shall abide by 48 CFR (FAR) 8.11 and 48 CFR (DEAR) 908.11.

(n) *Management, Acquisition and Use of Information Resources.* The contractor shall provide in its purchasing system and methods, with regard to the purchase of automatic data processing resources and telecommunications facilities, services, and equipment, for review and approval of requirements in ways that conform to the procedures contained in applicable DOE Directives (Orders and Notices).

(o) *Priorities, Allocations and Allotments.* The contractor shall provide in its purchasing system and methods for the extension to appropriate subcontracts of priorities, allocations and allotments in accordance with the clause or clauses of this contract dealing with priorities and allocations.

(p) *Purchase of Special Items.* Purchase of the following items shall be in accordance with the following provisions of 48 CFR (DEAR) subpart 908.71 and the Federal Property Management Regulations, as shown:

(1) Motor vehicles .....	908.7101
(2) Aircraft .....	908.7102
(3) Security Cabinets .....	908.7106
(4) Alcohol .....	908.7107
(5) Helium .....	908.7108
(6) Fuels and packaged petroleum products .....	908.7109
(7) Coal .....	908.7110
(8) Arms and Ammunition .....	908.7111

(9) Heavy Water .....

(10) Precious Metals .....

(11) Lithium .....

(12) Products and services of the blind and severely handicapped .....

(13) Products made in Federal penal and correctional institutions .....

(q) *Purchase vs. Lease Determinations.* The contractor shall provide for a system to determine whether required equipment and property should be purchased or leased. The system shall establish appropriate thresholds for application of lease vs. purchase determinations and shall be used in making such determinations: (1) at time of original acquisition; (2) when lease renewals are being considered; and (3) at other times as circumstances warrant.

(r) *Quality Assurance.* The contractor shall provide no less protection for the Government in its subcontracts than is provided in the prime contract.

(s) *Setoff of Assigned Subcontractor Proceeds.* The contractor shall provide that in cases in which a subcontractor has been permitted to assign payments to a financial institution, the assignment shall treat any right of setoff in accordance with 48 CFR (DEAR) 932.803.

(t) *Strategic and Critical Materials.* The contractor may use strategic and critical materials and shall fulfill its requirements in accordance with 48 CFR (FAR) 8.002.

(u) *Suspended, Debarred or Ineligible Contractors.* Proposed awards to firms or individuals on the GSA Consolidated List of Debarred, Suspended and Ineligible Contractors shall be forwarded to DOE for approval notwithstanding any prior purchasing system acceptance.

(v) *Termination.* When subcontracts are terminated as a result of the termination of all or a portion of this contract, the contractor shall settle with subcontractors in conformity with the policies and principles relating to settlement of prime contracts in 48 CFR (FAR) subparts 49.1, 49.2 and 49.3. When subcontracts are terminated for reasons other than termination of this contract, the contractor shall settle such subcontracts in general conformity with the policies and principles in 48 CFR (FAR) subparts 49.1, 49.2, 49.3 and 49.4. Each such termination shall be documented and consistent with the terms of this contract. Terminations which require approval by the Government shall be supported by accounting data and other information as may be directed by the contracting officer.

(w) *Unclassified Controlled Nuclear Information.* In its purchasing system and methods, the contractor shall provide for the treatment of unclassified uncontrolled nuclear information to be handled in accordance with 10 CFR part 1017.

#### **970.5204-24 Subcontractor cost or pricing data.**

5. At 970.5204-24, *Subcontractor cost or pricing data*, remove the phrase "As prescribed in 970.7104-11," from the introductory text.

#### **970.5204-45 Termination.**

6. At 970.5204-45, *Termination*, remove the phrase "As prescribed in 970.7104-30," from the introductory text.

#### **970.5204-50 Cost and schedule control systems.**

7. At 970.5204-50, *Cost and schedule control systems*, remove the phrase "As prescribed in 970.7104-40," from the introductory text.

8. Add new subsection 970.5204-XX, *Flowdown of contract requirements to subcontracts*, to read as set forth below:

#### **970.5204-XX Flowdown of contract requirements to subcontracts.**

Insert the following clause.

Flowdown of Contract Requirements to Subcontracts (month year TBE).

(a) The contractor shall include the clauses in paragraph (b) of this clause in appropriate subcontracts.

(1) To the extent that the clause is included in this prime contract, the contractor shall comply with that portion of the clause that directs application to subcontracts.

(2) To the extent that the clause is not included in this prime contract, or where it is included, but there is no instruction for treatment in subcontracts, the contractor shall include the clause in accordance with applicable regulatory guidance which would apply if the subcontract were a prime contract with the Federal government.

(3) In all cases, where a regulation is cited, the contractor shall comply with the regulation in administration of the related clause.

(b) Clauses and related regulations.

(1) *Air transportation by U.S.-flag carriers.* Clause at 48 CFR (FAR) 52.247-63.

(2) *Anti-Kickback Act of 1986.* Clause at 48 CFR (FAR) 52.203-7.

(3) *Clean Air and Water.* Clause at 48 CFR (FAR) 52.223-2, and follow the requirements of 48 CFR (FAR) 23.1.

(4) *Contract Work Hours and Safety Standards Act.* Clause at 48 CFR (FAR) 52.222-4, and follow the requirements of 48 CFR (FAR) 22.3.

(5) *Cost or Pricing Data.* Clause at 48 CFR (DEAR) 970.5204-24.

(6) *Cost and Schedule Control Systems.* Clause at 48 CFR (DEAR) 970.5204-50.

(7) *Cost Accounting Standards.* Clause at 48 CFR (FAR) 52.230-2, as prescribed in 48 CFR (DEAR) 970.30.

(8) *Davis-Bacon Act.* Clauses as directed at 48 CFR (FAR) 22.407, and follow the requirements of 48 CFR (FAR) 22.4 to the same extent that they would apply if the subcontract had been directly awarded by DOE. 48 CFR (DEAR) Subpart 922.4 and 48 CFR (DEAR) 970.2273 provide guidance to assist in determining the applicability of these regulations.

(9) *Employment of the Handicapped.* Clause at 48 CFR (FAR) 52.222-36, and follow the requirements of 48 CFR (FAR) 22.14.

(10) *Environmental and Occupational Safety and Health.* Clauses as prescribed in 48 CFR (DEAR) 970.2303-2.