



# CONSTRUCTION GENERAL PROVISIONS

P-270  
06/2016

This purchase order incorporates the following articles by reference, with the same force and effect as if they were printed in full text. The revision of each article will be the one in effect on the date of the solicitation. Titles of articles in this subcontract are for reference purposes only and carry no substantive weight.

For purposes of this order, where the article says "Government", change it to read "Buyer"; where the article says "Contracting Officer", change it to read "Contract Administrator"; and when the article says "Contractor" or "Subcontractor", change it to read "Supplier".

Based on the stated provisions, Supplier is to determine what articles must be inserted in its subcontracts and purchase orders to implement its obligations to BMPC (as identified in the order) and the Government, and must implement them in its lower-tier subcontracts and purchase orders.

## PART I. ARTICLES INCORPORATED BY REFERENCE

The following articles, as applicable, are incorporated by reference (except as noted):

ARTICLE	REFERENCE
CHANGES AND CHANGED CONDITIONS (Delete Paragraph (e))	FAR 52.243-5
CLEANING UP	FAR 52.236-12
COMBATING TRAFFICKING IN PERSONS	FAR 52.222-50
DEFAULT (FIXED-PRICE CONSTRUCTION) • Delete reference in Paragraph (B.2) to the Disputes Article	FAR 52.249-10
DIFFERING SITE CONDITIONS	FAR 52.236-2
ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS	FAR 52.223-15
EQUAL OPPORTUNITY • Note: For this article, FAR 52-222-35 Equal Opportunity for Veterans, and FAR 52.222-36 Equal Opportunity for Workers with Disabilities the following additional language applies: This contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans, or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that the Supplier take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.	FAR 52.222-26
GOVERNMENT PROPERTY (With Alt 1) • Note 1: Alternate I does not apply to the following purchase order types: cost-reimbursement, time-and-material, labor-hour, and fixed-price purchase orders awarded on the basis of submission of certified cost or pricing data • Note 2: The preamble on page 1 of these General Provisions does not apply to the Government Property article (FAR 52.245-1). The Government Property article is modified as follows: Where the article says "Contractor" change it to read "Supplier"; Where the article says "subcontractor" change it to read "sub-tier supplier"; Where the article says "contract" change it to read "purchase order"; Where the article says "Contracting Officer" change it to read "Contract Administrator"	FAR 52.245-1
INSPECTION OF CONSTRUCTION	FAR 52.246-12
INTEGRATION OF ENVIRONMENT, SAFETY AND HEALTH INTO WORK PLANNING AND EXECUTION	DEAR 970.5223-1
LAYOUT OF WORK	FAR 52.236-17
MATERIALS AND WORKMANSHIP	FAR 52.236-5
NOTICE OF BUY AMERICAN ACT REQUIREMENTS – CONSTRUCTION MATERIALS	FAR 52.225-10
OPERATIONS AND STORAGE AREAS	FAR 52.236-10
OTHER CONTRACTS	FAR 52.236-8
PERFORMANCE AND PAYMENT BONDS - CONSTRUCTION	FAR 52.228-15
PERMITS AND RESPONSIBILITIES	FAR 52.236-7
PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL	FAR 52.204-9
PREFERENCE FOR PRIVATELY OWNED U.S. – FLAG COMMERCIAL VESSELS	FAR 52.247-64
PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS	DEAR 952.223-75
PROHIBITION OF SEGREGATED FACILITIES	FAR 52.222-21



# CONSTRUCTION GENERAL PROVISIONS

**P-270**  
**06/2016**

ARTICLE	REFERENCE
PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS	FAR 52.236-9
RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	FAR 52.225-13
SPECIFICATIONS AND DRAWINGS – FOR CONSTRUCTION	FAR 52.236-21
SITE INVESTIGATIONS AND CONDITIONS AFFECTING THE WORK	FAR 52.236-3
SUBCONTRACTS FOR COMMERCIAL ITEMS	FAR 52.244-6
SUPERINTENDENCE BY THE SUBCONTRACTOR	FAR 52.236-6
SUSPENSION OF WORK	FAR 52.242-14
USE AND POSSESSION PRIOR TO COMPLETION	FAR 52.236-11
UTILIZATION OF SMALL BUSINESS CONCERNS	FAR 52.219-8
WARRANTY OF CONSTRUCTION	FAR 52.246-21
WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES	DEAR 952.203-7

## **PART II. ARTICLES INCORPORATED BY REFERENCE AT VARIOUS THRESHOLDS**

*The following articles, as applicable, are incorporated by reference (except as noted):*

THRESHOLD	ARTICLE	REFERENCE
<b>Less than \$7,864,000</b>	BUY AMERICAN ACT – CONSTRUCTION MATERIALS	FAR 52.225-9
<b>Less than \$150,000</b>	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SHORT FORM)	FAR 52.249-1
<b>Greater than \$2,000</b>	APPRENTICES AND TRAINEES	FAR 52.222-9
	CERTIFICATION OF ELIGIBILITY	FAR 52.222-15
	COMPLIANCE WITH COPELAND ACT REQUIREMENTS	FAR 52.222-10
	COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND REQUIREMENTS	FAR 52.222-13
	CONTRACT TERMINATION-DEBARMENT	FAR 52.222-12
	CONSTRUCTION WAGE RATE REQUIREMENTS	FAR 52.222-6
	DISPUTES CONCERNING LABOR STANDARDS	FAR 52.222-14
	PAYROLLS AND BASIC RECORDS	FAR 52.222-8
	SUBCONTRACT (LABOR STANDARDS)	FAR 52.222-11
	WITHHOLDING OF FUNDS	FAR 52.222-7
<b>Greater than \$3,500</b>	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING	FAR 52.223-18
<b>Greater than \$10,000</b>	AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION	FAR 52.222-27
	NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL OPPORTUNITY FOR CONSTRUCTION	FAR 52.222-23
	NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT	FAR 52.222-40
<b>Greater than \$15,000</b>	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES	FAR 52.222-36
<b>Greater than \$150,000</b>	ANTI-KICKBACK PROCEDURES	FAR 52.203-7
	AUDIT AND RECORDS-NEGOTIATION	FAR 52.215-2
	AUTHORIZATION AND CONSENT	FAR 52.227-1
	BANKRUPTCY	FAR 52.242-13
	CHANGES	FAR 52.243-4
	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT-OVERTIME COMPENSATION	FAR 52.222-4
	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	FAR 52.203-17
	DEFINITIONS	FAR 52.202-1
	DUTY FREE ENTRY	FAR 52.225-8



# CONSTRUCTION GENERAL PROVISIONS

**P-270**  
**06/2016**

<b>THRESHOLD</b>	<b>ARTICLE</b>	<b>REFERENCE</b>
<b>Greater than \$150,000</b>	EMPLOYMENT REPORTS ON VETERANS	FAR 52.222-37
	EQUAL OPPORTUNITY FOR VETERANS	FAR 52.222-35
	FEDERAL, STATE AND LOCAL TAXES	FAR 52.229-3
	GRATUITIES	FAR 52.203-3
	INSURANCE-WORK ON A GOVERNMENT INSTALLATION	FAR 52.228-5
	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	FAR 52.203-12
	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT	FAR 52.203-6
	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (With Alt I) (Delete Paragraph (j))	FAR 52.249-2
<b>Greater than \$750,000</b>	NOTIFICATION OF OWNERSHIP CHANGES	FAR 52.215-19
	PENSION ADJUSTMENTS AND ASSET REVERSIONS	FAR 52.215-15
	PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA	FAR 52.215-10
	REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS	FAR 52.215-18
	SUBCONTRACTOR CERTIFIED COST OR PRICING DATA	FAR 52.215-12
<b>Greater than \$1,500,000</b>	SMALL BUSINESS SUBCONTRACTING PLAN	FAR 52.219-9
<b>Greater than \$5,500,000</b>	CONTRACTOR CODE OF BUSINESS ETHICS	FAR 52.203-13
	DISPLAY OF HOTLINE POSTER(S)	FAR 52.203-14

### **PART III. ARTICLES INCORPORATED IN FULL TEXT**

*The following articles, as applicable, are incorporated by full text:*

#### **ASSIGNMENT AND SET OFF**

Performance of this order shall not be assigned or transferred by Subcontractor, except as expressly authorized in writing by Buyer. This order may be assigned by Buyer to the Government or any designee of the Government, provided that written notice thereof is given to Subcontractor. Buyer shall be entitled at all times to set off against any amount payable at any time by Buyer under this order, any amount owing at any time from Subcontractor to Buyer whether arising under this order or other contracts or orders with Subcontractor.

#### **EXPORT CONTROL**

- A. Subcontractor agrees to comply with all applicable U.S. export control laws and regulations, specifically the requirements of the Arms Export Control Act, 22 U.S.C. 2751-2794, including the International Traffic in Arms Regulation (ITAR), 22 C.F.R. 120 et seq.; and the Export Administration Act, 50 U.S.C. app. 2401-2420, including the Export Administration Regulations 15 C.F.R., including the requirement for obtaining any export license, if applicable. Without limiting the foregoing, Subcontractor agrees that it will not transfer any export controlled item, data, or services, to include transfer to foreign persons employed by, or associated with, or under contract to Subcontractor or Subcontractor's lower-tier Subcontractors, without the authority of an export license or applicable license exemption.
- B. Subcontractor agrees to notify the Buyer if any deliverable under this Subcontract is restricted by export control laws or regulations.
- C. Subcontractor shall immediately notify the Buyer if Subcontractor is or becomes listed in any Denied Parties List, or if Subcontractor's export privileges are otherwise denied, suspended, or revoked in whole or in part by any U.S. Government entity or agency.
- D. Subcontractor shall be responsible for all losses, costs, claims, causes of action, damages, liabilities and expenses, including attorney's fees, all expense of litigation and/or settlement, and court costs arising from any act or omission of the Subcontractor, its officers, employees, agents, Subcontractors, or subcontractors at any tier, in the performance of any of its obligations under this provision.

#### **LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS**

If the EFT information changes after submission of correct EFT information, the Buyer shall begin using the changed EFT information no later than 30 days after its receipt by the designated office to the extent payment is made by EFT. However, the Supplier may request that no further payments be made until the updated EFT information is implemented by the payment office. If such suspension



## CONSTRUCTION GENERAL PROVISIONS

P-270  
06/2016

would result in a late payment, the Supplier 's request for suspension shall extend the due date for payment by the number of days of the suspension.

If an uncompleted or erroneous transfer occurs because the Buyer used the Supplier EFT information incorrectly, the Buyer remains responsible for-

- Making a correct payment;
- Recovering any erroneously directed funds.

If an uncompleted or erroneous transfer occurs because the Supplier EFT information was incorrect, or was revised within 30 days of Buyer release of the EFT payment transaction instruction to the Federal Reserve System, and-

- If the funds are no longer under the control of the payment office, the Buyer is deemed to have made payment and the Supplier is responsible for recovery of any erroneously directed funds; or
- If the funds remain under the control of the payment office, the Buyer shall not make payment and the provisions of the first paragraph shall apply.

### **INDEPENDENT CONTRACTOR RELATIONSHIP AND SUBCONTRACTOR PERSONNEL**

1. Subcontractor's relationship to Buyer shall be that of an Independent Contractor and this Subcontract does not create an agency, partnership, or joint venture relationship between Buyer and Subcontractor or Buyer and Subcontractor personnel. Personnel supplied by Subcontractor hereunder shall be deemed employees of Subcontractor and shall not for any purposes be considered employees or agents of Buyer. Subcontractor assumes full responsibility for the actions and supervision of such personnel while performing services under this Subcontract. Buyer assumes no liability for Subcontractor personnel.
2. Subcontractor shall inform Buyer if a former employee of Buyer will be assigned Work under this Subcontract, and any such assignment shall be subject to Buyer approval.
3. Nothing contained in this Subcontract shall be construed as granting to Subcontractor or any personnel of Subcontractor rights under any benefit plan of Buyer or its parent.
4. All persons, property, and vehicles entering or leaving Buyer's or Government's premises are subject to search.
5. Subcontractor will promptly notify Buyer and provide a report of any accidents or security incidents involving loss of or misuse or damage to Buyer's or Government's intellectual or physical assets, and all physical altercations, assaults, or harassment involving Subcontractor's personnel performing work under this Purchase Order.
6. Subcontractor personnel: (i) will not remove Buyer or Government assets from Buyer's or Government's premises without Buyer authorization; (ii) will use Buyer or Government assets only for purposes of this Subcontract; (iii) will only connect with, interact with or use computer resources, networks, programs, tools or routines that Buyer agrees are needed to provide services; and (iv) will not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers. Buyer may periodically audit Subcontractor's data residing on Buyer or Government's information assets.
7. Subcontractor shall indemnify and hold harmless Buyer from and against any actual or alleged liability, loss, costs, damages, fees of attorneys, and other expenses which Buyer may sustain or incur in consequence of (i) Subcontractor's failure to pay any employee for the Work rendered under this Subcontract, or (ii) any claims made by Subcontractor's personnel against Buyer.
8. The Subcontractor will verify all contract workers that it provides to Buyer are authorized to work in the United States.
9. The Subcontractor will take appropriate action to remove its employees working on this contract who are later discovered not to be legally authorized to work in the United States and/or whose identity is in question.
10. The Subcontractor indemnifies Buyer from any and all liability, loss or damage it may suffer as a result of claims, demands, costs or judgments against it arising from the Subcontractor providing contract workers in violation of the requirements of the laws of the United States or the state in which the worker is working. Indemnity under this agreement shall continue in full force throughout the term of this purchase order.

### **SUBCONTRACTOR LIABILITIES AND INDEMNIFICATIONS**

This subcontract does not bind nor purport to bind the United States Government, its officers, employees, or agents. As to the Work to be done, or services to be performed by Subcontractor on Buyer premises, Government premises, or the premises of other Buyer Subcontractors, Subcontractor assumes entire responsibility and liability for losses, expenses, damages, demands, and claims in connection with or arising out of any injury or alleged injury (including death), or damage or alleged damage to property, sustained or alleged to have been sustained in connection with or to have arisen out of performance of the Work. Subcontractor will indemnify and save harmless the Government and Buyer, or other Buyer Subcontractors, from and against any and all claims, demands, actions, causes of actions, suits, damages, expenses (including attorneys' fees) and liabilities whatsoever resulting from or arising in any manner on account of or by reason of any injury to or death of any person or any damage to or loss of property which may occur or be alleged to have occurred as a result of or in connection with the performance of this subcontract. Subcontractor further agrees to indemnify Buyer and the Government against, and to save and hold harmless Buyer and the Government from any and all liability, and



## CONSTRUCTION GENERAL PROVISIONS

**P-270  
06/2016**

expense with respect to claims against Buyer or the Government which may result from the failure or alleged failure of Subcontractor or any of its lower-tier subcontractors to comply with the requirements of this purchase order.

### **TITLES**

The use of titles in this subcontract is for reference purposes only and carries no substantive weight.

### **TITLE AND ADMINISTRATION**

All site work performed in furtherance of this subcontract will be on real property owned by the U.S. Government. Title and all property rights and interests resulting from this subcontract shall pass directly from Subcontractor to the U.S. Government, upon acceptance, regardless of when or where the Government takes physical possession. Payments under this subcontract will be made by Buyer from funds advanced by the Government, not from Buyer's own assets. Administration of this Subcontract may be transferred to DOE or its designee, and in case of such transfer and notice thereof to subcontractor, Buyer shall have no further responsibilities hereunder.

### **MEMORY BEARING COMPONENTS**

A memory bearing component is computer memory that can retain the stored information even when not powered. Examples include, but are not limited to, read-only memory, flash memory, most types of magnetic computer storage devices (e.g. hard disks, floppy disks, and magnetic tape), optical discs, and early computer storage methods such as paper tape and punched cards. Once a memory bearing component has been delivered, it will not be removed from the laboratory unless Buyer can conclude that the component is free from any classified or sensitive data and removal of the component is approved by the Buyer. Magnetic media is subject to Buyer Security Regulations and will not be allowed to be removed from Buyer's sites. Memory bearing components retained by Buyer, in accordance with Buyer Security Requirements, shall be replaced at Supplier's cost. Subcontractor shall invoice for reimbursement for each part replaced or repaired.

### **DISPUTES**

Subcontractor shall not be entitled to claim and Buyer shall not be liable to Subcontractor or its Subcontractors or subcontractors of any tier in tort (including negligence), or contract except as specifically provided in this subcontract.

Any claim arising out of or attributable to the interpretation or performance of this subcontract which cannot be resolved by negotiation shall be considered a dispute within the meaning of this clause.

If for any reason Subcontractor and Buyer are unable to resolve a claim for an adjustment, Subcontractor or Buyer shall notify the other party in writing that a dispute exists and request or provide a final determination regarding the claim. Any such request by Subcontractor shall clearly reference this clause and shall summarize the facts in dispute and Subcontractor's proposed resolution of the dispute.

Buyer shall, within sixty (60) calendar days of any request by Subcontractor, provide a written final determination setting forth the contractual basis for its decision and defining what subcontract adjustments it considers equitable. Upon Subcontractor's written acceptance of Buyer's determination the subcontract will be modified and the determination implemented accordingly.

If Buyer's final determination is not accepted by Subcontractor, the matter shall, within thirty (30) calendar days, be referred to senior executives of the parties who shall have designated authority to settle the dispute. The parties shall promptly prepare and exchange memoranda stating the issues in dispute and their respective positions, summarizing the negotiations that have taken place and attaching relevant documents.

The senior executives will meet for negotiations at a mutually agreed time and place. If the matter has not been resolved within thirty (30) days of the commencement of such negotiations, the parties agree to consider resolution of the dispute through some form of Alternative Dispute Resolution (ADR) process which is mutually acceptable to the parties.

Should the parties agree to pursue an ADR process each party will be responsible for its own expenses incurred to resolve the dispute during the ADR process.

If the parties do not agree to an ADR process or are unable to resolve the dispute through ADR, either party shall then have the right to pursue any legal remedy consistent with other terms of the subcontract.

Pending final resolution of any performance issue, request for equitable adjustment, claim or dispute regarding this subcontract, the Subcontractor shall proceed diligently with the performance of this subcontract.



## CONSTRUCTION GENERAL PROVISIONS

**P-270  
06/2016**

### **CHOICE OF LAW**

This subcontract and any and all matters of disputes between the parties to this subcontract whether arising from the subcontract itself or arising from alleged extra contractual facts, during or subsequent to the contract shall be governed by construed, and enforced in accordance with the law of U.S. Government contracts as set forth by statute and applicable regulations, and decisions by the appropriate courts and Board of Contract Appeals. To the extent that the law referred to in the foregoing sentence is not determinative on an issue, the issue shall be resolved in accordance with the laws of the Idaho or New York or Pennsylvania depending on the state in which the work is performed.

### **APPROVALS**

Notwithstanding the Suspension of Work clause (FAR 52.242-14) and with respect to any requirements of this subcontract that the Subcontractor obtain the approval of Buyer, in the event that Buyer, within the time specified in the subcontract or if no time is specified, within a reasonable time, fails to either grant the approval requested or to advise Subcontractor that the request for approval has been denied and if such failure causes an increase in the time required for performance of this subcontract, an equitable adjustment shall be made in the delivery dates set forth in this subcontract and this subcontract shall be amended accordingly. Any claim by the Subcontractor for an equitable adjustment in the delivery date under this article must be asserted in writing within fifteen (15) days after the approval is granted or denied, provided that Buyer, in its sole discretion decides that the facts justify such action, may receive and act upon a claim for adjustment asserted at any time prior to final payment under this subcontract. The adjustment provided for herein is exclusive and any such failure on the part of the Buyer to grant the required approval shall not be the basis for a charge of contract breach, nor for a claim for money damages of any nature whatever.

### **LOWER-TIER SUBCONTRACTS**

- (a) If, at any time during the progress of the work under this subcontract, Buyer determines that any lower-tier subcontractor's performance is unacceptable for any reason, Buyer will notify the Subcontractor accordingly. The Subcontractor shall then take immediate steps to address the unsatisfactory performance up to and including termination of the lower-tier subcontract.
- (b) The Subcontractor agrees that it is responsible for the acts and omissions of its lower-tier subcontractors and of all persons either directly or indirectly employed by its subcontractors or by the Subcontractor.
- (c) Nothing contained in this subcontract shall be construed to create any contractual relationship between any lower-tier subcontractor and the Buyer.

### **ORDER OF PRECEDENCE**

In the event of any inconsistencies from this purchase order, the following order of precedence shall apply:

1. Purchase Order/Subcontract
2. General Provisions
3. Applicable Referenced Documents (including final proposal for Design Build)\*
4. Detailed Specification / Workslope
5. Drawings

\*all documents except the General Provisions, Specifications/Workscopes and Drawings

Any inconsistencies whatsoever shall be brought to the attention of the Contract Administrator prior to any action related hereto by the Supplier.