

# MISSION SUPPORT AND TEST SERVICES, LLC

## FIRM-FIXED-PRICE DESIGN-BUILD SUBCONTRACT

### EXHIBIT D SPECIAL CONDITIONS

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## **D-1 EXPEDITING**

Timely performance and delivery in accordance with the schedule herein are essential to this Subcontract.

The Products, including all warranty work, shall be subject to expediting by CONTRACTOR and Government. CONTRACTOR's and Government's representatives shall be afforded free access during working hours to SUBCONTRACTOR's plants. SUBCONTRACTOR shall notify CONTRACTOR in writing of any actual or anticipated delays immediately upon discovery. Such notice shall include an estimated period of delay, cause, and corrective actions being taken. Slippage in SUBCONTRACTOR's schedule may be deemed to be reasonable grounds for insecurity in which event CONTRACTOR may demand in writing that SUBCONTRACTOR provide adequate assurances that SUBCONTRACTOR will perform on time.

## **D-2 COMMENCEMENT, PROSECUTION AND COMPLETION OF THE WORK**

The SUBCONTRACTOR shall commence performance of the Work under this Subcontract on the date specified in the Subcontract or applicable Task Order, and shall furnish sufficient forces, facilities, and shall work such hours necessary so as to accomplish the Work within the completion and/or delivery dates specified in the Subcontract.

The SUBCONTRACTOR shall provide the materials and services and shall maintain a continuous operation in compliance with this Subcontract from 10/01/2025 through 03/01/2027.

The SUBCONTRACTOR shall perform all Pre-Mobilization activities listed in accordance with the Limited Notice to Proceed.

The SUBCONTRACTOR shall start on-site performance of the Work under this Subcontract on the date specified in the Mobilization Notice To Proceed, and shall furnish sufficient forces, facilities, and shall work such hours necessary so as to accomplish the on-site Work in accordance with the following major Subcontract dates:

- (a) Complete All Design Work: within **210** calendar days from the start date specified in the Notice to Proceed.
- (b) Complete All Construction Work: within **485** calendar days from the start date specified in the Mobilization Notice to Proceed.

## **D-3 INSURANCE**

- (a) 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 10 calendar days after Notice of Award, but in any event prior to commencing the Work or entering the jobsite, Certificates of Insurance as evidence that policies providing such coverage and limits of insurance are in full force and effect. Certificates shall be issued in the form acceptable to CONTRACTOR. SUBCONTRACTOR agrees to provide not less than 30 calendar days advance written notice will be given to CONTRACTOR prior to cancellation, termination or material alteration of said policies of insurance. The Certificates shall identify on their face the project name and the applicable subcontract number. Unless expressly provided otherwise below, the United States Government, U.S. Department of Energy (DOE), the CONTRACTOR, Honeywell International, Jacobs Engineering, HII Nuclear, Inc., and their affiliates, agents, officers, directors, representatives, employees, heirs, successors, and assignees, etc. shall be named as Additional Insureds under all insurance policies required under this clause, but only with respect to liability arising out of the performance of the Work of the Subcontractor under this Subcontract. 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. All insurance shall provide for an insurer's waiver of subrogation rights in favor of CONTRACTOR and the Government.

- (b) Standard Coverage:

1. All Workers' Compensation insurance (or similar insurance) required by any applicable Federal,

State, or local law or regulation.

Note: All SUBCONTRACTORS who are working on construction projects in Nevada are required to provide workers compensation insurance coverage to their employees either through obtaining a new policy for Nevada required coverage under Nevada Revised Statute (NRS), obtaining an endorsement to SUBCONTRACTOR's current workers compensation policy issued in another state, or being self-insured pursuant to NRS 616B.612. Any out-of-state SUBCONTRACTOR meeting the definition of NRS 624.020 working temporarily in Nevada must obtain Nevada Workers' Compensation Insurance prior to the start of any project.

If any of SUBCONTRACTOR'S employees are covered by the U.S. Longshoremen's and Harbor Workers' Compensation Act (46 U.S.C. §§ 901-950), the Jones Act (46 U.S.C. § 30104) or under other laws, regulations or statutes applicable to maritime employees, or under the Defense Base Act (covering employees performing work outside the United States under for national defense purposes (most, if not all, subcontracts issued by CONTRACTOR are for national defense purposes)), SUBCONTRACTOR shall obtain the appropriate coverage as required by law and submit to the CONTRACTOR Certificates of Insurance as evidence that policies providing such coverage and limits of insurance are in full force and effect within the time limits stated in paragraph (a) above.

2. Employer's Liability of not less than \$1,000,000 each accident.

3. General Liability Insurance

i. 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. The required limits may be satisfied by a combination of a primary policy and excess or umbrella policy:

\$5,000,000	Combined single limit for Bodily Injury and Property Damage each occurrence;
\$5,000,000	Personal Injury Limit each occurrence;
\$5,000,000	Products-Completed Operations Annual Aggregate Limit; and
\$5,000,000	General Annual Aggregate Limit (other than Products-Completed Operations).

The Commercial General Liability insurance shall be written on the Occurrence Coverage Form and shall include, but not be limited to, coverage for:

1. Premises and Operations
2. Products and Completed Operations
3. Contractual Liability
4. Broad from Property Damage
5. Explosion, Collapse, and Underground Hazards
6. Personal Injury Liability

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

The combined single limit for Bodily Injury and Property Damage Liability shall be not less than \$2,000,000 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. Higher limits shall apply if required by law, such as that required for the shipment of hazardous material (see for example, without limitation, 49 U.S.C. 31139(d)).

(c) Special Operations Coverage:

Should any of the work involve any of the following, the SUBCONTRACTOR shall maintain insurance coverage as specified below:

1. Involve Design work, Professional Liability Insurance (Errors and Omissions) covering DESIGN CONSULTANT'S professional negligent acts, errors or omissions with a limit of not less than: \$2,000,000 per claim/annual aggregate.
2. Involve Commercial Motor Vehicles, SUBCONTRACTOR shall carry Commercial Motor Vehicle Liability Insurance including coverage for the operation of any vehicle to include, but not limited to, owned, hired and non-owned vehicles. The combined single limit for Bodily Injury and Property Damage Liability shall be not less than \$10,000,000 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 Commercial Motor Vehicle Liability Insurance shall include coverage for Motor Vehicle Contractual Liability. Higher limits shall apply if required by law.

(d) Related Obligations:

1. The requirements contained herein as to insurance 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. SUBCONTRACTOR shall require its subcontractors, if any, to maintain all the same insurance coverages as required by paragraph (b) and (c) of this clause to the extent applicable to the portion of the work which they shall perform, in accordance with the same terms and conditions as specified in this clause. SUBCONTRACTOR must furnish evidence of such insurance to CONTRACTOR prior to commencement of the work.

(e) CONTRACTOR or GOVERNMENT Furnished Insurance:

Neither CONTRACTOR nor Government is maintaining any insurance on behalf of SUBCONTRACTOR of any nature, including any insurance covering against loss or damage to the Work or to any other property of SUBCONTRACTOR unless otherwise specifically stated herein and as may be described by appendix hereto.

(f) Notifications:

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

Mission Support and Test Services, LLC  
P.O. Box 98521, M/S NLV018  
Las Vegas, NV 89193-8521  
Attention: Shawna Ham  
Reference: Subcontract No. TBD

#### **D-4 CONTRACTOR-FURNISHED DRAWINGS, SPECIFICATIONS & STATEMENTS OF WORK**

CONTRACTOR will furnish statements of work, 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, if required. SUBCONTRACTOR shall, upon receipt, check all statements of work, specifications and drawings furnished and shall promptly notify CONTRACTOR of any omissions or discrepancies in such statements of work, specifications or drawings.

#### **D-5 SUBCONTRACTOR-FURNISHED DRAWINGS, DATA AND SAMPLES**

CONTRACTOR review and permission to proceed does not constitute acceptance or approval of submittals including, but not limited to, design details, calculations, analyses, test methods, construction methods, rigging plans, certificates, or materials developed or selected by SUBCONTRACTOR and does not relieve SUBCONTRACTOR from full compliance with the subcontract requirements. The Subcontract shall utilize FRM-0226, Titled "Transmittal Sheet – Subcontract" to transmit Submittals and/or Request for clarifications to obtain authorization status by the Contractor.

### Drawings:

If the SUBCONTRACTOR is required elsewhere in this Subcontract to submit to the CONTRACTOR for approval drawings, specifications, data, other design documents, or other similar submittals (collectively "Submittals") for any reason:

Such Submittals shall be submitted by and at the expense of SUBCONTRACTOR as specified elsewhere in this Subcontract. If not otherwise specified, Submittals must be submitted at least 30 days prior to the relevant fabrication, installation or performance is commenced, in order to allow sufficient time for review by CONTRACTOR unless the Subcontract Administrator expressly authorizes the Subcontractor to deviate from this requirement. Drawings shall include, but not be limited to, match marks, erection diagrams and other details, such as field connections for proper installation, erection of equipment or materials, and performance of the Work.

Drawings of a specific piece of equipment shall identify components with the manufacturer's part number or reference drawing number clearly indicated. If reference drawing numbers are used, the review data of such drawings shall be included.

Drawings shall indicate design dimensions, maximum and minimum allowable operating tolerances on all major wear fits, (e.g., rotating, reciprocating, or intermittent sliding fits between shafts or systems and seals, guides, and pivot pins). The sequence of submission of all drawings shall be such that all information is available for reviewing each drawing when it is received.

All drawings submitted by SUBCONTRACTOR shall be certified by SUBCONTRACTOR to be correct, shall show the Subcontract number, and shall be furnished in accordance with the Subcontract Drawings and Data Requirements Form(s). CONTRACTOR will conduct a review of SUBCONTRACTOR'S drawings and a reproducible drawing marked with one of the following codes will be returned to SUBCONTRACTOR.

<u>Code</u>	<u>Notation</u>
1.	Work may proceed
2.	Revise and resubmit – work may proceed subject to resolution
3.	Revise and resubmit – work may not proceed
4.	Review not required – work may proceed

Although work may proceed on receipt of a drawing with a Code 2 notation, SUBCONTRACTOR must resolve the comments indicated, resubmit, and obtain a Code 1 notation before release for shipment or completion of the affected work.

### Samples:

Where samples are required, they shall be submitted by and at the expense of SUBCONTRACTOR. Such submittals shall be made not less than 30 calendar days prior to the time that the materials represented by such samples are needed for incorporation into the Work. Samples shall be subject to review and materials represented by such samples shall not be manufactured, delivered to the job site, or incorporated into the Work without such review.

Each sample shall bare a label showing SUBCONTRACTOR'S name, Project name, subcontract number, name of the item, manufacturer's name, brand name, model number, supplier's name, and reference to the appropriate drawing number, technical specification section and paragraph number, all as applicable.

Samples, which have been reviewed, may, at CONTRACTOR'S option, be returned to SUBCONTRACTOR for incorporation into the Work.

### Certificates and Data:

Where certificates are required, two copies of each such certificate shall be submitted by and at the expense of SUBCONTRACTOR. Such submittal shall be made not less than 30 calendar days prior to the time that the materials represented by such certificates are needed for Incorporation into the Work. Certificates shall be subject to review and material represented by such certificates shall not be fabricated, delivered to the Job site, or incorporated into the Work without such review.

Certificates shall clearly identify the material being certified and shall include but not be limited to providing the

following information: SUBCONTRACTOR'S name, Project name, Subcontract number, name of the item, manufacturer's name, and reference to the appropriate drawing, technical specification section, and paragraph number, all as applicable.

All other data shall be submitted as required by the Subcontract Documents.

#### AS-BUILT DRAWINGS AND SPECIFICATIONS

##### Drawings:

- a. Progress As-Built: During progress of the Work, SUBCONTRACTOR shall keep a marked-up-to-date set of as-built blue line drawings on the Job site as an accurate record of all deviations between work as shown and work as installed. These drawings shall be available to CONTRACTOR and OWNER for inspection at any time during regular business hours.
- b. Final As-Built: SUBCONTRACTOR shall, at its expense and not later than 30 calendar days after Final Acceptance and before Final Payment, furnish to CONTRACTOR a complete set of marked-up as-built reproducible drawings with "AS-BUILT" clearly printed on each sheet. CONTRACTOR, without charge, will furnish SUBCONTRACTOR with reproducibles for mark-up by SUBCONTRACTOR. SUBCONTRACTOR shall accurately and neatly transfer all deviations from progress as-builts. As-built drawings shall be provided where specified and as required to reflect as-built conditions.

##### Specifications:

- a. Progress As-Builts. During progress of the Work, SUBCONTRACTOR shall keep a marked-up-to-date set of as-built specifications on the Job site annotated to clearly indicate substitutions that are incorporated into the Work. Where selection of more than one product is specified, annotation shall show which product was installed. These specifications shall be available to CONTRACTOR and OWNER for inspection at any time during regular business hours.
- b. Final As-Builts. SUBCONTRACTOR shall at its expense and not later than 30 calendar days after Final Acceptance and before Final Payment furnish to CONTRACTOR a complete set of marked-up as-built specifications with "AS-BUILT" clearly printed on the cover. CONTRACTOR, without charge, will furnish SUBCONTRACTOR a set of specifications for mark-up by SUBCONTRACTOR. SUBCONTRACTOR shall accurately and neatly transfer all annotations from progress as-builts to final as-builts.

##### Endorsement:

SUBCONTRACTOR shall sign each final as-built specification and shall note thereon that the recording of deviations and annotations is complete and accurate.

#### **D-6 PERMITS AND RESPONSIBILITIES**

- (a) Except for permits furnished by the CONTRACTOR as specified in paragraph (b), the SUBCONTRACTOR shall, without additional expense to the CONTRACTOR, be responsible for obtaining any and all necessary licenses and permits.
- (b) The CONTRACTOR will without cost to the SUBCONTRACTOR, furnish the permits listed below. All such CONTRACTOR-furnished permits are available for examination at the project office of CONTRACTOR during regular business hours.  
**NONE**
- (c) The SUBCONTRACTOR shall also be responsible and liable for all materials delivered and Work performed until completion and acceptance of the entire Work, except for any completed unit of Work which may have been accepted under the Subcontract.

#### **D-7 SUBCONTRACT SCHEDULE**

- (a) SUBCONTRACTOR shall, within ten (10) calendar days from and after SUBCONTRACTOR'S receipt of written notice to proceed, and, in any event, prior to performance of Work, submit to CONTRACTOR for approval a detailed Subcontract Schedule meeting the dates established in the Special Condition titled "COMMENCEMENT, PROSECUTION AND COMPLETION OF THE WORK" and shall show all

activities and sequence of operations needed for the orderly performance and completion of any separable parts of any Work, inclusive of off-Site Work, and all Work in accordance with this Subcontract.

- (b) The Subcontract Schedule shall be complete in all aspects and shall include a personnel forecast by classification. SUBCONTRACTOR shall promptly inform CONTRACTOR of any proposed change(s) in the schedule and shall furnish CONTRACTOR with a revised schedule within ten (10) calendar days after approval by CONTRACTOR of such change. The schedule shall be kept up to date, taking into account the actual progress of Work and shall be revised, if necessary, every thirty (30) calendar days. The revised schedule shall, as determined by CONTRACTOR, be sufficient to meet the requirements for the completion of the separable parts of any and all Work as set forth in this Subcontract.
- (c) The SUBCONTRACTOR shall enter the actual progress on the schedule as directed by the STR, and upon doing so shall immediately deliver three copies of the annotated schedule to the STR. If, in the opinion of the Subcontract Administrator, the SUBCONTRACTOR falls behind the approved schedule, the SUBCONTRACTOR shall take steps necessary to improve its progress, including those that may be required by the Subcontract Administrator, without additional cost to the CONTRACTOR. In this circumstance, the Subcontract Administrator may require the SUBCONTRACTOR to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Subcontract Administrator deems necessary to demonstrate how the approved rate of progress will be regained.
- (d) Failure of the SUBCONTRACTOR to comply with the requirements of the Subcontract Administrator under this clause shall be grounds for a determination by the Subcontract Administrator that the SUBCONTRACTOR is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the Subcontract. Upon making this determination, the Subcontract Administrator may terminate the SUBCONTRACTOR'S right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

## **D-8 SERVICES AVAILABLE AT THE NEVADA NATIONAL SECURITY SITE, MERCURY, NEVADA**

SUBCONTRACTOR is responsible for those items listed below that are not specifically identified as the responsibility of the CONTRACTOR or other identified organization.

### **Housing:**

Housing arrangements are the sole responsibility, and cost obligation, of the SUBCONTRACTOR. There is some housing in Mercury that CONTRACTOR will make available to SUBCONTRACTOR at rates charged by CONTRACTOR and on a space available basis. The number of current units and rental rates will be provided upon request.

### **Food:**

Cafeteria-style food is available in Mercury at rates competitive to off-site rates. Individuals or groups can arrange for food services with NNSS Site Services. Rates are subject to fluctuation. The Mercury cafeteria has limited hours of operation, usually only four days per week. These hours are subject to change. Vending services are available in the Mercury cafeteria 24 hours per day. All costs are at the SUBCONTRACTOR'S expense and on cashless basis.

### **Security:**

NNSS access security is currently provided by SOC LLC. No other security will be provided. The SUBCONTRACTOR is responsible for security at the project site. Please note the NNSS access security requirements under Exhibit F of the subcontract.

### **Personal Protective Equipment (PPE):**

The SUBCONTRACTOR is responsible for providing all Personal Protective Equipment (PPE) including but



not limited to; hard hats, safety-toe shoes/boots, harnesses, safety glasses with side shields, miner's lamps, first aid kits and stations, etc. (Refer to Exhibit E).

**Mail services:**

CONTRACTOR provides a local DOE community mail service that the SUBCONTRACTOR may use for project mail within the NNSS. All other mail services are by private provider and are at the SUBCONTRACTOR'S expense. There is a US Post office in Mercury.

**Custodial services:**

Custodial services for SUBCONTRACTOR facilities are the responsibility of the SUBCONTRACTOR.

**Transportation:**

The SUBCONTRACTOR is responsible for all transportation of SUBCONTRACTOR personnel to and from the designated reporting location. Subcontractor employees are authorized to utilize CONTRACTOR bus service on a space available basis at their own expense.

## **D-9 INVOICING AND PAYMENT**

Electronic funds transfer is the preferred method of payment used by MSTs. To take advantage of this expedited payment process, SUBCONTRACTOR shall complete form FRM-0870.

[https://www.nnss.gov/docs/docs\\_procurement/frm0870.pdf](https://www.nnss.gov/docs/docs_procurement/frm0870.pdf)

Firm-Fixed-Price:

SUBCONTRACTOR invoices for Firm-Fixed-Price Work shall provide documentation that may include deliverables or other documentation signed by the Subcontract Administrator or the Subcontract Technical Representative (STR) demonstrating that performance of the Work has been completed and accepted by the CONTRACTOR in accordance with the Subcontract requirements. Unless progress payments or milestone payments are expressly authorized elsewhere in this Subcontract, SUBCONTRACTOR shall be entitled to invoice for payment only upon the successful completion and acceptance of all of the Work required by the SUBCONTRACT, Order, or Line Item (as applicable).

As a condition of final payment, the SUBCONTRACTOR shall submit a Subcontract Release Statement FRM-2206. The Subcontract Release Statement shall include a certification that states the following:

"All Government and CONTRACTOR-furnished property has been returned, consumed, delivered or otherwise disposed of as instructed by CONTRACTOR."

(Date)

Failure to specify the full Subcontract number, corresponding Order Number (if applicable) and to submit full supporting documentation may be cause for invoice rejection or delay in payment. CONTRACTOR may withhold payment on any SUBCONTRACTOR invoice until all properly completed and signed documentation is received and, if applicable, badges/property returned by SUBCONTRACTOR.

To expedite payment, e-mail all invoices directly to the MSTs Accounts Payable Department at [apinvprd@nv.doe.gov](mailto:apinvprd@nv.doe.gov). Invoice images are accepted only in PDF and TIF format with each invoice to be submitted separately. This e-mail address is to be used for invoices only, not for Statements and Billing Slips.

If SUBCONTRACTOR cannot facilitate electronic submission, SUBCONTRACTOR shall submit all invoices, including the final invoice, detailed by Subcontract Line Item Number on the original invoice to:

Mission Support and Test Services, LLC  
P.O. Box 98521, M/S NSF025  
Las Vegas, NV 89193-8521

Attention: Accounts Payable  
Reference: Subcontract No. TBD

**Note:** If SUBCONTRACTOR has not received payment in accordance with the above, SUBCONTRACTOR



shall contact the Accounts Payable at [ACCTPAY@nv.doe.gov](mailto:ACCTPAY@nv.doe.gov) and the Subcontract Administrator. The email must include a listing the Subcontract Number, Line Item Numbers, and any additional details such as proof of delivery, dates etc. to help expedite payment. SUBCONTRACTOR shall include a copy of the invoice(s) with the email.

## **D-10 PAYMENTS UNDER FIRM-FIXED-PRICE CONSTRUCTION OR DESIGN-BUILD SUBCONTRACTS**

- (a) *Payment of price.* The CONTRACTOR shall pay the SUBCONTRACTOR the Subcontract price as provided in this Subcontract.
- (b) *Progress payments.* The CONTRACTOR shall make progress payments for a portion of the work as shown in Exhibit A (Quantities, Prices and Data) on a monthly basis as the Work proceeds, or at more frequent intervals as determined by the Subcontract Administrator, on estimates of Work accomplished which meets the standards of quality established under the Subcontract, as approved by the Subcontract Administrator.
- (1) The SUBCONTRACTOR'S request for progress payments shall include the following substantiation:
- (i) An itemization of the amounts requested, related to the various elements of the Work required by the Subcontract covered by the payment requested.
  - (ii) A listing of the amount included for Work performed by each lower-tier subcontractor under the Subcontract.
  - (iii) A listing of the total amount of each lower-tier subcontract under the Subcontract.
  - (iv) A listing of the amounts previously paid to each such lower-tier subcontractor under the Subcontract.
  - (v) Additional supporting data in a form and detail required by the Subcontract Administrator.
- (2) In the preparation of estimates, the Subcontract Administrator may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the SUBCONTRACTOR at locations other than the site also may be taken into consideration if-
- (i) Consideration is specifically authorized by this Subcontract; and
  - (ii) The SUBCONTRACTOR furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this Subcontract.
- (c) SUBCONTRACTOR *certification.* Along with each request for progress payments, the SUBCONTRACTOR shall furnish the following certification, or payment shall not be made: (However, if the SUBCONTRACTOR elects to delete paragraph (c)(4) from the certification, the certification is still acceptable).

I hereby acknowledge and certify, to the best of my knowledge and belief, that-

- (1) Amounts paid to SUBCONTRACTOR pursuant to Subcontract No. [Subcontract No.] are reimbursed to the CONTRACTOR by the Federal Government through the U.S. Department of Energy
- (2) The amounts requested herein are true and accurate and are only for performance in accordance

with the specifications, terms, and conditions of the Subcontract;

- (3) All payments due to employees and/or lower-tier subcontractors and suppliers from previous payments received under the Subcontract have been made as required by law, regulation, and/or lower-tier subcontract agreements, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with law, regulation, and/or lower-tier subcontract agreements;
- (4) This request for progress payments does not include any amounts which the SUBCONTRACTOR intends to withhold or retain from a lower-tier subcontractor or supplier in accordance with the terms and conditions of the lower-tier subcontract; and
- (5) I acknowledge and understand that false or fraudulent invoices, requests for payments, or certifications submitted to CONTRACTOR are considered false statements or false claims made directly to the United States Federal Government.
- (6) This certification is not to be construed as final acceptance of a lower-tier subcontractor's performance.

\_\_\_\_\_ (Name)

\_\_\_\_\_ (Title)

\_\_\_\_\_ (Date)

- (d) *Refund of unearned amounts.* If the SUBCONTRACTOR, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the SUBCONTRACTOR that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the SUBCONTRACTOR shall-

- (1) Notify the Subcontract Administrator of such performance deficiency; and
- (2) Be obligated to pay the Government an amount (computed by the Subcontract Administrator in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until-
  - (i) The date the SUBCONTRACTOR notifies the Subcontract Administrator that the performance deficiency has been corrected; or
  - (ii) The date the SUBCONTRACTOR reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

- (e) *Retainage.* If the Subcontract Administrator finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Subcontract Administrator shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Subcontract Administrator may retain an appropriate percent of the amount of the payment until satisfactory progress is achieved. When the Work is substantially complete, the Subcontract Administrator may retain from previously withheld funds and future progress payments that amount the Subcontract Administrator considers adequate for protection of the CONTRACTOR and the Government and shall release to the SUBCONTRACTOR all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, Line Item, or other division of the Subcontract, for which the price is stated separately in the Subcontract, payment shall be made for the completed Work without retention of a percentage.

- (f) *Title, liability, and reservation of rights.* All material and Work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as-
- (1) Relieving the SUBCONTRACTOR from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or
  - (2) Waiving the right of the CONTRACTOR and/or the Government to require the fulfillment of all of the terms of the contract.
- (g) *Reimbursement for bond premiums.* In making these progress payments, the CONTRACTOR shall, upon request, reimburse the SUBCONTRACTOR for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the SUBCONTRACTOR has furnished evidence of full payment to the surety. The retainage clauses in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.
- (h) *Final payment.* The CONTRACTOR shall pay the final amount due the SUBCONTRACTOR under this Subcontract after-
- (1) Completion and acceptance of all Work;
  - (2) Presentation of a properly executed invoice; and
  - (3) Presentation of release of all claims against the CONTRACTOR and the Government arising by virtue of this Subcontract (as prescribed elsewhere in this Subcontract), other than claims, in stated amounts, that the SUBCONTRACTOR has specifically accepted from the operation of the release. A release may also be required of the assignee if the SUBCONTRACTOR's claim to amounts payable under this Subcontract has been assigned.
- (i) *Limitation because of undefinitized work.* Notwithstanding any clause of this Subcontract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions such as change orders which have not yet been reduced to a formal, definitized, Subcontract modification.
- (j) *Interest computation on unearned amounts.* In accordance with [31 U.S.C.3903\(c\)\(1\)](#), the amount payable under paragraph (d)(2) of this clause shall be-
- (1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the SUBCONTRACTOR receives the unearned amount; and
  - (2) Deducted from the next available payment to the SUBCONTRACTOR.
- (k) As shown in Exhibit A (Quantities, Prices and Data), a portion of the Subcontract price for the Work to be completed under this Subcontract has been divided into smaller Firm- Fixed Milestone Payments as shown elsewhere in the Subcontract. SUBCONTRACTOR shall be entitled to invoice for each specified Milestone Payment only upon the successful completion, and CONTRACTOR'S acceptance of, each Milestone in accordance with the SUBCONTRACT requirements and specified acceptance criteria. Invoices for Milestone Payments shall be accompanied by documentation signed by the Subcontract Administrator or the STR demonstrating that the Milestone has been fully completed and accepted by the CONTRACTOR. Invoices shall be accompanied by the certification required by the Invoicing and Payment Clause of this Subcontract. Milestone Payments are considered "contract financing payments" as defined in FAR Section 32.001.

## D-11 CONTRACTOR WORK HOURS AND HOLIDAYS

Nevada National Security Site (NNSS) business hours are from 7:00 a.m. to 5:30 p.m., PST Monday through Thursday.

Deviation from the approved Site Work hours shall be requested in writing from the CONTRACTOR and such approval shall not be unreasonably withheld.

CONTRACTOR recognizes the following holidays:

New Year's Day	Labor Day
Martin Luther King Day	*Veterans Day
Presidents' Day	Thanksgiving Day
Memorial Day	*Day after Thanksgiving
Juneteenth	*Day before Christmas Day
Independence Day	Christmas Day
**December 27, and December 28	

\*These holidays are not applicable on the 4/10 hour work schedule and are also subject to change. SUBCONTRACTOR shall verify holidays with STR.

\*\* Actual dates may change from year to year.

## D-12 PERFORMANCE OF WORK BY THE SUBCONTRACTOR

The SUBCONTRACTOR shall perform with its own organization, work equivalent to at least 15% percent of the total work to be performed under the Subcontract. The SUBCONTRACTOR shall provide a report to the Subcontract Administrator on an annual basis that identifies the actual percentage of work performed by the SUBCONTRACTOR. The percentage of work performed by the SUBCONTRACTOR shall be based on the total subcontract value.

## D-13 WAGE RATE INFORMATION

The Construction Wage Rate Requirements (formerly known as the Davis-Bacon Act) apply to this Subcontract. Wage Determination NV20240001 is attached.

The Supplement for PLA Hourly Wage and Fringe Benefit Rates is available at:

<https://nnss.gov/wp-content/uploads/FY24WageSupplement.pdf>

## D-14 CONSTRUCTION LABOR STANDARDS

The Subcontractor shall complete Standard Form (SF)1413, Part II Acknowledgment of Subcontractor and provide to the Subcontract Administrator within 10 days after award.

## D-15 SMALL BUSINESS SUBCONTRACTING PLAN (LARGE BUSINESS ONLY)

A **Subcontracting Plan** shall be submitted and approved by the SUBCONTRACT ADMINISTRATOR and shall be made part of the resultant subcontract in accordance with FAR Clause 52.219-9 (Jun 2020), Alt II (Nov 2016), "Small Business Subcontracting Plan."

OFFEROR/SUBCONTRACTOR shall use the attached "Subcontracting Plan Template"

The approved Subcontracting Plan must be submitted through the Electronic Subcontracting Reporting System (eSRS), at [www.esrs.gov](http://www.esrs.gov).

An **Individual Subcontract Report** must be submitted semi-annually during Subcontract Performance for the periods ending March 31<sup>st</sup> and September 30<sup>th</sup>. A separate report is required at contract completion. Reports are due 15 days after the close of each reporting period (April 15 and October 15). Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report. Reports are submitted electronically at [www.esrs.gov](http://www.esrs.gov), Electronic Subcontracting Reporting System. Report instructions are posted on [www.esrs.gov](http://www.esrs.gov); choose "eSRS Contractor Guide."

A **Summary Subcontract Report** must be submitted annually during Subcontract Performance for the twelve months ending September 30<sup>th</sup>. A separate report is required at contract completion. Reports are due 15 days after the close of the reporting period (October 15). Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or since the previous report. Reports are submitted electronically at [www.esrs.gov](http://www.esrs.gov), Electronic Subcontracting Reporting System. Report instructions are posted on [www.esrs.gov](http://www.esrs.gov); choose "eSRS Contractor Guide."

## D-16 COLLECTIVE BARGAINING AGREEMENTS

In addition to compliance with the applicable collective bargaining agreements as required in the General Condition entitled LABOR, PERSONNEL AND WORK RULES, SUBCONTRACTOR is required to be signatory to the collective bargaining agreement(s) listed in the Special Condition titled ATTACHMENTS, and to provide a written Letter of Assent as evidence of such signing. The Letter of Assent shall be delivered no later than 10 calendar days after Notice of Award.

Being signatory to the collective bargaining agreement(s) means that the SUBCONTRACTOR agrees to comply with all of the Terms and Conditions set forth in the applicable collective bargaining agreement(s) inclusive of the wage rates, fringe benefits, subsistence and the hiring/referral procedures.

Any work to be performed by crafts covered by the agreements shall be paid, at a minimum, the amounts listed for the respective labor union agreements, or the Construction Wage Rates attached to this Subcontract, whichever is higher.

The successful proposer and their lower-tier subcontractors are required to attend a Pre-Job Conference with the Building Trades in accordance with the project labor agreement prior to mobilization. **The Subcontractor shall call the CONTRACTOR'S Labor Relations Office at (725)259-8189 or email: [starksm@nv.doe.gov](mailto:starksm@nv.doe.gov) and/or [laborelations@nv.doe.gov](mailto:laborelations@nv.doe.gov) for scheduling of the above Pre-Job Conference. The Building Trades phone numbers are (702) 452-8799; FAX (702) 452-9537.**

## D-17 PERFORMANCE AND PAYMENT BONDS

Definitions. As used in this clause "Subcontract price" means the award price of the Subcontract or, for requirements Subcontracts, the price payable for the estimated quantity; or for indefinite-delivery type Subcontracts, the price payable for the specified minimum quantity.

The Subcontractor shall furnish, prior to the commencement of the Work or as otherwise provided in this Subcontract or as required by the Subcontract Administrator, performance and payment bonds or equivalent protection to the CONTRACTOR as follows:

- (1) **Subcontracts exceeding \$150,000** must have both a Payment Bond and a Performance Bond.
  - (i) Performance Bonds:
    - (a) The penal amount of performance bonds shall be 100 percent of the original subcontract price.
    - (b) The CONTRACTOR may require additional performance bond protection when the subcontract price is increased. The increase in protection shall generally equal 100 percent of the increase in subcontract price.
    - (c) The CONTRACTOR may secure additional protection by directing the SUBCONTRACTOR to increase the penal amount of the existing bond or to obtain an additional bond.
    - (d) Standard Form SF25, Performance Bond, shall be modified to name the CONTRACTOR as well as the United States of America as obligees. The Form can be located at the following link: <https://www.gsa.gov/forms-library/performance-bond>
  - (ii) Payment Bonds:
    - (a) The penal amount of payment bonds shall be 100 percent of the original subcontract price.
    - (b) The CONTRACTOR may require additional performance bond protection when the subcontract price is increased. The increase in protection shall generally equal 100 percent of the increase in subcontract price.
    - (c) The CONTRACTOR may secure additional protection by directing the SUBCONTRACTOR to increase the penal sum of the existing bond or to obtain an additional bond.
    - (d) If the Subcontract is over \$25,000, but not greater than \$150,000, the SUBCONTRACTOR may submit an Irrevocable Letter of Credit (ILC) in lieu of a payment bond. The ILC format is provided as an attachment under the Special Condition for Attachments (see Table of Comments).

- (e) Standard Form SF25A, Payment Bond, shall be modified to name the CONTRACTOR as well as the United States of America as obligees. The Form can be located at the following link:  
<https://www.gsa.gov/forms-library/payment-bond>

The SUBCONTRACTOR shall furnish all executed bonds and/or Letters of Credit, including any necessary reinsurance agreements, to the CONTRACTOR no later than 10 calendar days after Notice of Award.

The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties. The bonds shall be accompanied by a letter stating the name and contact information of the responsible individual of the Surety who will be servicing the bonds. SUBCONTRACTOR shall maintain this information current throughout the execution of the subcontract.

Other assets may be pledged in lieu of bonds. However, they must conform to FAR 28.204.

## **D-18 USE OF ROADWAYS**

SUBCONTRACTOR shall comply with CONTRACTOR'S and Government's traffic regulations when utilizing CONTRACTOR or Government roadways. It shall be the responsibility of the SUBCONTRACTOR to familiarize itself and its employees with the traffic and safety requirements applicable to the Site.

## **D-19 NON-INTERFERENCE**

SUBCONTRACTOR is responsible to ensure the non-interference of its own personnel, lower-tier subcontractors or suppliers with ongoing operations and personnel at the NNSS.

SUBCONTRACTOR shall not, in any manner, interfere with, or permit any of its subcontractors or suppliers to interfere with ongoing operations. Any interference shall be immediately addressed, and the cause identified, and measures taken to prevent reoccurrence.

## **D-20 APPROVAL OF SUBCONTRACTOR KEY PERSONNEL**

All SUBCONTRACTOR key personnel assigned to perform the Work under this Subcontract or visit the Site shall have prior approval of Subcontract Administrator.

Replacement Key Personal must be equally qualified to perform the Work and must be approved by the Subcontract Administrator.

The following individuals are named as Subcontractor Key Personnel and are subject to this clause.

<b>Name</b>	<b>Title/Position</b>
TBD	Project Manager
TBD	On-Site Safety Representative
TBD	On-Site Quality Assurance
TBD	Architect
TBD	Engineer

"At all times during performance of this Subcontract and until the work is completed and accepted, the SUBCONTRACTOR'S superintendent shall directly supervise and oversee the Work at the worksite or assign and have at the worksite another qualified representative of the SUBCONTRACTOR (in the superintendent's temporary absence) who is satisfactory to the Subcontract Administrator and who has authority to act for the SUBCONTRACTOR."



## **D-21 PERSONAL IDENTITY VERIFICATION (PIV) FOR UNCLEARED PERSONNEL**

- (a) Uncleared SUBCONTRACTOR Employees who require physical access to NNSA sites and/or logical access (which includes remote access to NNSA IT Systems) for greater than 179 days, must be processed for Personal Identity Verification (PIV) in accordance with NNSA Supplemental Directive (SD) 206.2, Attachment 1 (Contractor Requirements Document), which is hereby incorporated by reference into this Subcontract. This includes any physical and logical access combination greater than 179 days.
- (b) An Employee who receives an initial HSPD-12 PIV credential denial is entitled to follow the appeals proceed outlined in SD 206.2, Attachment 1. If a SUBCONTRACTOR employee receives a final unfavorable determination, the SUBCONTRACTOR must immediately notify the CONTRACTOR, remove the employee from the worksite, and disable the individual's access to all NNSA IT systems. CONTRACTOR may also, at its sole discretion, direct SUBCONTRACTOR to discontinue using the employee to perform services under this SUBCONTRACT. Such direction does not constitute direction to terminate, suspend, or otherwise discipline the SUBCONTRACTOR employee (subcontractors retain discretion to manage and discipline their own employees in accordance with their own HR policies). Only the Subcontract Administrator may provide this direction to the SUBCONTRACTOR.
- (c) Supplemental Directive NNSA SD 206.2 is available at the following URL:  
<https://directives.nnsa.doe.gov/supplemental-directive/sdo-0206-0002/@@images/file>.

## **D-22 ORGANIZATIONAL CONFLICTS OF INTEREST – ADVISORY AND ASSISTANCE SUBCONTRACTS**

- a. Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable to or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the subcontract work is or might be otherwise impaired, or a person has an unfair competitive advantage.
- b. A SUBCONTRACTOR notified that it is the apparent successful SUBCONTRACTOR shall provide the statement described in paragraph (c) of this clause. For the purposes of this clause, "apparent successful SUBCONTRACTOR" means the proposer selected for final negotiations or, where individual subcontracts are negotiated with all firms in the competitive range, it means all such firms. The requirements of this clause apply individually to any of the proposer's identified, including consultants or subcontractors that also furnish advisory and assistance services in performance of this subcontract.
- c. The statement must contain the following:
  - (1) Name of the agency and the number of the solicitation involved.
  - (2) The name, address, telephone number, and federal taxpayer identification number of the apparent successful SUBCONTRACTOR.
  - (3) A description of the nature of the services rendered by or to be rendered on the instant Subcontract.
  - (4) A statement of any past (within the past 12 months), present, or currently planned financial, contractual, organizational, or other interests relating to the performance of the statement of work. For contractual interests, such statement must include the name, address, telephone number of the client or client(s), a description of the services rendered to the previous client(s), and the name of the responsible officer or employee of the SUBCONTRACTOR who is knowledgeable about the services rendered to each client, if, in the twelve months preceding the date of the statement, services were rendered to the Government or any other client (including a foreign government or person) respecting the same subject matter of the instant solicitation, or directly relating to such subject matter. The agency and contract number under which the services were rendered must also be included, if applicable. For financial interests, the statement must include the nature and extent of the interest and any entity or entities involved in the financial relationship. For these and any other interests enough such information must be provided to allow a meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

- (5) A statement that no actual or potential conflict of interest or unfair competitive advantage exists with respect to the advisory and assistance services to be provided in connection with the instant contract or that any actual or potential conflict of interest or unfair competitive advantage that does or may exist with respect to the subcontract in question has been communicated as part of the statement required by b above.
- d. Failure of the SUBCONTRACTOR to provide the required statement may result in the SUBCONTRACTOR being determined ineligible for award. Misrepresentation or failure to report any fact may result in the assessment of penalties associated with false statements or such other clauses provided for by law or regulation.

## **D-23 ORGANIZATIONAL CONFLICTS OF INTEREST – REPRESENTATION OR DISCLOSURE**

It is the policy of MISSION SUPPORT AND TEST SERVICES, LLC (MSTS) and its Government Agency clients to identify and avoid Organizational Conflicts of Interest (OCI), that is, situations which place an SUBCONTRACTOR in a position where its judgment may be biased due to any past, present, or currently planned interest, financial or otherwise, that the SUBCONTRACTOR may have which relates to the work to be performed pursuant to this solicitation or where the SUBCONTRACTOR'S performance of such work may provide it with an unfair competitive advantage. (As used herein, "SUBCONTRACTOR" means the proposer as an individual consultant, a representative of a corporation or company, or any of its affiliates or proposed consultants or supplier/subcontractor of any tier).

### **DISCLOSURE**

The SUBCONTRACTOR shall provide a statement, which describes, in a concise manner, all requirements listed in the Special Condition entitled "Organizational Conflicts of Interest – Advisory and Assistance Contracts."

The SUBCONTRACTOR may, because of possible OCIs, propose to exclude specific kinds of work, unless the solicitation specifically prohibits such exclusion. Any such proposed exclusion by a SUBCONTRACTOR shall be considered by MSTS in the evaluation of proposals, and if MSTS considers the proposed excluded work to be an essential or integral part of the required work, the proposal may be rejected as unacceptable.

The SUBCONTRACTOR may also provide information that shows how its organizational structure and/or management systems limit possible OCIs relating to affiliates or other divisions of the SUBCONTRACTOR and how that structure or system would avoid an OCI.

The SUBCONTRACTOR shall submit the same information as required herein, for its subcontractors, which will perform work similar to that to be performed by the SUBCONTRACTOR and are over the simplified acquisition threshold.

The SUBCONTRACTOR shall promptly provide to MSTS any changes or additions in its relevant facts that occur between the submission of its proposal and the award of the subcontract or the time that the SUBCONTRACTOR is notified that it is no longer under consideration for award.

### **REPRESENTATION**

In the absence of any relevant facts, the SUBCONTRACTOR shall complete the *Representation* certifying that to the best of his or her knowledge and belief no such facts exist. Also, a completed *Representation* must be provided by the SUBCONTRACTOR for each of its consultants and suppliers/ SUBCONTRACTORS which will perform work similar to that to be performed by the SUBCONTRACTOR and for each of its chief executives and directors, and those of its consultants and suppliers/SUBCONTRACTORS performing similar services, who will be directly involved in performance of the subcontract.

### **MSTS AND GOVERNMENT CLIENT**

No award shall be made until the *Representation or Disclosure* has been evaluated by MSTs. MSTs will review the *Representation or Disclosure* and may require additional information from the SUBCONTRACTOR. All information received from the SUBCONTRACTOR and any other relevant information known to MSTs or the client will be used to determine whether an award to the SUBCONTRACTOR may create an OCI with respect to the SUBCONTRACTOR's (1) being able to render impartial, technically sound, and/or objective assistance or advice or (2) being given an unfair competitive advantage. If an OCI is found to exist, MSTs, at its sole discretion, may (1) impose appropriate conditions which avoid such conflict, (2) disqualify the SUBCONTRACTOR for award, or (3) determine that it is otherwise in the best interest of the government to contract with the SUBCONTRACTOR in face of an OCI after including appropriate conditions mitigating such conflict.

#### DISQUALIFICATION OR TERMINATION

The refusal to provide the *Representation or Disclosure* and any additional information, which is requested, shall result in disqualification of the SUBCONTRACTOR for award. The nondisclosure or misrepresentation of any relevant facts may also result in the disqualification of the SUBCONTRACTOR for award, or if such nondisclosure or misrepresentation is discovered after award, the resulting subcontract may be terminated for default. The SUBCONTRACTOR may also be disqualified from subsequent, related MSTs subcontracts and be subject to other remedial action as permitted or provided by law or in the resulting subcontract. The attention of the SUBCONTRACTOR in complying with this clause is directed to 18 U.S.C. 1001.

### D-24 WORKPLACE SUBSTANCE ABUSE PROGRAM

SUBCONTRACTOR shall develop and implement a written Workplace Substance Abuse Program in accordance with 10 CFR Part 707 Workplace Substance Abuse Programs at Department of Energy Sites, as a condition for award of the subcontract. CONTRACTOR shall review and approve the SUBCONTRACTOR's program, and shall periodically monitor the implementation of the program for effectiveness and compliance with 10 CFR Part 707. In addition, SUBCONTRACTOR shall include a statement that "medical marijuana (although prescribed by a physician) is not recognized as a legal drug in the federal environment".

CONTRACTOR has included an attachment, Checklist for Subcontractors Workplace Substance Abuse Program, to be completed and submitted with your companies Workplace Substance Abuse Program. See Section D-14 below.

### D-25 ATTACHMENTS

1. Organizational Conflicts of Interest Representation or Disclosure form
2. Form 0870 "Supplier Payment Information Changes"
3. Form 2206, "Subcontractor Release Statement"
4. Subcontracting Plan Template
5. Form 2362, "Letter of Assent".
6. Construction Project Labor Agreement for the Nevada National Security Site (NNSS) which includes the Remote Sensing Laboratory, North Las Vegas Facility, Tonopah Test Range and Yucca Mountain Site, October 1, 2020 - September 30, 2025. Incorporated by Reference see:  
[https://nnss.gov/wp-content/uploads/FINAL\\_2020ConstructionPLA.pdf](https://nnss.gov/wp-content/uploads/FINAL_2020ConstructionPLA.pdf)
7. Construction Project Labor Agreement Wage and Fringe Benefits Supplement, latest revision. See  
<https://nnss.gov/wp-content/uploads/FY24WageSupplement.pdf>
8. The applicable Davis-Bacon General Decision NV20240001, for the construction classification and location where the work is to be performed is incorporated.
9. Sample Irrevocable Letter of Credit.

10. Form 2206, "Subcontractor Release Statement"
11. Subcontracting Plan Template
12. Standard Form (SF)1413, Statement and Acknowledgement
13. Checklist for Subcontractors Workplace Substance Abuse Program