

Request for Proposals Number LBNF-301510-CA

for

Long-Baseline Neutrino Facility Near Site Conventional Facilities

Independent Design Review

This Request for Proposals consists of a model subcontract in Sections A through J and Representations/Certifications, Instructions, and Evaluation Factors in Sections K through M.

Questions and inquiries are to be submitted via e-mail to Chris Allen at callen@fnal.gov no later than December 20, 2019.

Proposals are to be submitted via e-mail to Chris Allen at callen@fnal.gov no later than 5:00pm Central Standard Time on Friday, January 10, 2020.

Subcontract Number _____

for

Long Baseline Neutrino Facility Near Site Conventional Facilities

Independent Design Review

Section A - Award

A1. Identification of Parties

This Subcontract is between Fermi Research Alliance, LLC ("FRA") and the party identified below as the Subcontractor ("Subcontractor").

A2. Subcontract Issued Under Prime Contract

This Subcontract is issued under Prime Contract No. DE-AC02-07CH11359 between the United States Government ("Government"), represented by the Department of Energy ("DOE"), and FRA for the management and operation of the Fermi National Accelerator Laboratory ("FNAL or Fermilab") and the performance of research and development work.

A3. Relationships

Nothing in this Subcontract shall be deemed as creating any relationship between FRA and Subcontractor other than that of contractor and subcontractor or buyer and seller. Subcontractor shall not interpret any clause contained herein as being binding or purporting to bind the United States Government, its officers, or its agents.

A4. General Purpose of the Subcontract

The general purpose of this Subcontract is for the acquisition of the Long-Baseline Neutrino Facility (LBNF) Near Site Conventional Facilities (NSCF) Independent Design Review of the Preliminary and Final Designs.

A.5 Period of Performance

The base period of performance of this Subcontract is effective on February 1, 2020 and shall continue through October 31, 2021.

A6. Order of Precedence

Any inconsistency in this Subcontract shall be resolved by giving precedence in the following order: Section A, B, D, E, F, G, H, I, C, J.

A7. Agreement

The parties agree to perform their respective obligations in accordance with the sections, terms and conditions, the documents referenced or incorporated herein, which constitute the entire Subcontract and shall supersede all prior negotiations, representations, or agreements, whether verbal or written.

A8. Signature

The parties have caused this Subcontract to be executed by their duly authorized agents by their signatures below.

Subcontractor

Fermi Research Alliance, LLC (FRA)

Signature:

Signature:

Name:

Name

Title:

Title:

Date:

Date:

Section B - Supplies or Services and Prices

B1. Prices

The Subcontractor shall provide the supplies or services at the prices shown below.

Subcontract Line Item Number (SLIN)	Description	Firm-Fixed-Price
1	Preliminary Design Independent Design Review	\$ _____
2	Final Design Independent Design Review	\$ _____

B2. Firm-Fixed-Prices (FFP)

The Firm-Fixed-Prices are not subject to any adjustment by Subcontractor. Only the FRA Procurement Specialist is authorized to change the Firm-Fixed-Prices.

B3. Availability of Funds

Funds are not presently available for SLIN #2. FRA's obligation under SLIN #2 is contingent upon the availability of funds from which payment for SLIN #2 can be made. No legal liability on the part of FRA for any payment under SLIN #2 may arise until funds are made available to the FRA Procurement Specialist for this Subcontract and until the Subcontractor receives notice of such availability, to be confirmed in writing by the FRA Procurement Specialist.

Section C - Description of Work

C1. Standards of Performance

The Subcontractor shall perform the work under this Subcontract by using its best efforts and know-how and its performance shall be accomplished in a workmanlike manner by qualified, careful and efficient personnel, in accordance with professional standards of care.

C2. Technical Reports

The Subcontractor shall prepare and submit to the FRA Procurement Specialist and/or distribute, as directed by the Procurement Specialist, such reports concerning technical aspects of work under this Subcontract, in such quantity and form (including detail) and at such times, as may be specified in this subcontract, or as may otherwise be specified by the Procurement Specialist.

C.3 Conduct of Employees

The Subcontractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, and integrity and shall be responsible for taking such disciplinary action with respect to its employees as may be necessary. The Subcontractor shall immediately remove from the work under this Subcontract any employee of the Subcontractor who, in the sole discretion of FRA, is found to be unsatisfactory in technical performance or personal conduct.

C4. Statement of Work

The Subcontractor shall perform the work in accordance with the Statement of Work in Attachment J-3.

Section D - Packaging and Marking

D1. Packaging and Marking

Unless otherwise stated in the Subcontract, the Subcontractor shall adequately package and mark all material, drawings, or other items required under this Subcontract to prevent damage during shipment to FRA.

Section E - Inspection and Acceptance

E1. Inspection and Acceptance

Inspection and acceptance shall be in accordance with the Statement of Work in Attachment J-3 and applicable clauses in Section I.

Section F - Deliveries or Periods of Performance

F1. Period of Performance

The period of performance of this Subcontract is from February 1, 2020 through October 31, 2021.

Subcontract Line Item Number (SLIN)	Description	Period of Performance	Performance Terms
1	Preliminary Design Independent Design Review	<i>February 1, 2020 – April 30, 2020 (anticipated)</i>	Performance of Services in Accordance with Statement of Work
2	Final Design Independent Design Review	<i>September 1, 2021 – October 31, 2021 (anticipated)</i>	Performance of Services in Accordance with Statement of Work

Section G - Subcontract Administration Data

G1. Subcontract Administration

- a. FRA's Procurement Specialist for this Subcontract is shown below. The Procurement Specialist or their designate is the only person authorized to make changes in the terms, conditions and requirements of this Subcontract or make modifications to this Subcontract including changes or modifications to the Statement of Work. The Subcontractor shall direct all notices and requests for approval required by this Subcontract to the Procurement Specialist at the following address:

FRA Procurement Specialist
Attention: **TBD**
Email: **TBD**
Phone: **TBD**

Fermi Research Alliance LLC
Kirk Road & Wilson Street
P.O. Box 500 – Mail Station #123
Batavia, IL 60510-0500

- b. Any notices and approvals required by this Subcontract from FRA to the Subcontractor shall be issued by the FRA Procurement Specialist.
- c. FRA's Technical Representative for this Subcontract is shown below. The Technical Representative is the person designated to monitor the Subcontract work and to interpret and clarify the technical requirements of the Statement of Work. The Technical Representative is not authorized to make changes to the work or modify any of the terms and conditions, including the schedule and the pricing of this Subcontract.

FRA Technical Representative
Attention: **TBD**
Email: **TBD**
Phone: **TBD**

Fermi Research Alliance, LLC
Kirk Road & Wilson Street
P.O. Box 500 – Mail Station
Batavia, IL 60510-0500

- d. Unless otherwise stated in the Subcontract, reports required by the Subcontract shall be separately submitted to the FRA Procurement Specialist and the FRA Technical Representative. Unless otherwise stated in the Subcontract, the reports shall be submitted by email.

G2. Notification of Potential Changes

The Subcontractor shall provide notification to FRA of potential changes to this subcontract. The primary purpose of this clause is to obtain prompt reporting by the Subcontractor of circumstances or FRA actions that the Subcontractor considers to constitute a change to this Subcontract. The Subcontractor shall notify the FRA Procurement Specialist in writing of any actions, inactions, or communications by FRA that the Subcontractor regards as a potential change to the Subcontract. This notice requirement does not apply to

formal change orders identified as such in writing and signed by the FRA Procurement Specialist pursuant to the Subcontract's Changes clause. The Subcontractor shall provide the notice promptly, but no later than ten calendar days from the date that the Subcontractor identifies the potential change. Based on the most accurate information available to the Subcontractor, the notice shall state:

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each FRA individual and Subcontractor official or employee involved in or knowledgeable about such conduct;
- (3) The identification of any documents and the substance of any oral communication involved in such conduct;
- (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose; and
- (5) The elements of Subcontract performance for which the Subcontractor may seek an equitable adjustment under this clause.

G3. Invoices

All invoices shall be emailed to apinvoices@fnal.gov with a copy to the Procurement Specialist at **TBD**. The subject line of the email shall state the Subcontractor's name and the Subcontract number.

If the Subcontractor is unable to submit an invoice by email, it may submit the invoice to the following address:

FRA Accounts Payable
Fermi National Accelerator Laboratory
P.O. Box 500 – Mail Station 112
Batavia, IL 60510

G3.1 General Invoice Requirements

Invoices shall be sent electronically to APINVOICES@FNAL.GOV and **TBD**.

Invoices shall contain the following information:

1. Subcontractor name as stated in the Subcontract
2. Remittance address
3. Telephone number and/or email address of person requesting payment
4. Subcontractor's statement that the invoice is correct
5. FRA Subcontract number
6. Invoice number
7. Invoice date
8. Total invoice amount
9. Subcontract Line Item Number and description, price, and services/reports delivered or completed and dates of service and deliverables.
10. Payment terms
11. Other documentation as required by the Subcontract

G3.2 Special Invoice Requirements

- a. Invoicing is only permitted upon the completion, delivery, and acceptance of all required deliverables and tasks associated with each SLIN. No partial payment requests will be considered for hours worked.

- b. All invoices shall be emailed to apinvoices@fnal.gov and to the Procurement Specialist at **TBD**. The subject line of the email shall state the Subcontractor's name and the Subcontract number.
- c. All invoices shall include: Subcontract number; SLIN; Subcontractor's name (including business heading or logo); invoice date; unique invoice number; and remittance address; and should sufficiently identify and support the payment requested.

G4. [Reserved]

G5. [Reserved]

G6. [Reserved]

G7. Closeout

The Subcontractor shall, as a condition of full payment, assist FRA after the completion of the work in accomplishing the administrative closeout of this Subcontract, including, as necessary or required, the furnishing of documentation and reports, the disposition of property, the disclosure of any inventions, the execution of any required assignment or release documents, the performance of any audits, and the settlement of any interim or disallowed costs.

H - Special Subcontract Requirements

H1. Small Business Subcontracting Plan

The Subcontractor's Small Business Subcontracting Plan is incorporated at Attachment J-5. *(Attachment J-5 will be removed if the Subcontract is awarded to a Small Business)*

H2. FRA Furnished U.S. Government Property

FRA will not furnish any U.S. Government Property for use under this Subcontract.

H3. [Reserved]

H4. [Reserved]

H5. Insurance

The insurance requirements for this Subcontract are as shown in Attachment J-2.

H6. Sub-Tier Subcontractors and Outside Associates and Consultants

Sub-tier subcontractors and outside associates or consultants required by the Subcontractor in providing the services covered this Subcontract shall be limited to individuals or firms that are listed in Attachment J-6. The Subcontractor shall obtain the FRA Procurement Specialist's written consent before making any substitution for these sub-tier subcontractors, associates, or consultants after the award of the Subcontract.

H7. [Reserved]

H8. Key Personnel

It is understood and agreed that the Subcontractor's key personnel designated below are considered essential to the work being performed hereunder and shall not be reassigned or replaced without prior FRA approval, except where such circumstances are beyond the reasonable control of the Subcontractor. The Subcontractor shall notify the FRA Procurement Specialist 90 days in advance and shall submit justification (including proposed substitutions with resumes) to permit evaluation of the impact on the performance of this Subcontract.

NAME

TITLE

TBD

TBD

H9. Supervision

FRA employees shall not direct or supervise Subcontractor's employees, either directly or indirectly. The Subcontractor is solely responsible for directing and supervising its employees.

H10. Limitation of FRA's Obligation

Only SLIN #1 is funded at the time of Subcontract award. Funds are not presently available for SLIN #2. FRA's obligation under SLIN #2 is contingent upon the availability of funds from which payment for SLIN #2 can be made. No legal liability on the part of FRA for any payment under SLIN #2 may arise until funds are made available to the FRA Procurement Specialist for this Subcontract and until the Subcontractor receives notice of such availability, to be confirmed in writing by the FRA Procurement Specialist.

H11. Restriction Respecting Participation in Construction Work Related to the Facility Design Reviewed Under This Subcontract

The Subcontractor shall be ineligible to participate in any capacity in Fermilab or Department of Energy subcontracts, sub-subcontracts, or proposals therefor (solicited and unsolicited) which stem directly from the Subcontractor's performance of work under this subcontract without the express approval of FRA.

Any firms involved in the furnishing of pre-construction services under this subcontract (including parent firms, subsidiaries or affiliates), and any successors in interest thereto, are ineligible to compete for or be awarded or perform any work under any subcontract or sub-subcontract for the furnishing of supplies and/or services for construction work with respect to the facility design reviewed hereunder, and the facility design reviewed hereunder shall not incorporate the products of any such firm. Neither shall any firm be allowed to perform any such work with its own forces. The foregoing shall not preclude such firms from providing construction management services for the facility design reviewed hereunder, provided the subcontract therefore requires that all physical construction and related supply subcontracts or sub-subcontractors are to be competitively bid and provided that all such firms are ineligible to bid or perform any work under such subcontracts or sub-subcontracts.

H12. Additional Requirements

Subcontractor compliance with all the orders, regulations, plans, manuals, and other directives listed in the Statement of Work and in the Incorporated Documents is a material term of this Subcontract.

Section I - Subcontract Clauses

I1. General Clauses

The general terms and conditions for this Subcontract are as listed in Attachments J-1 through J-3. The clauses listed in those Attachments shall be applicable to this Subcontract as stated therein based on the value of the Subcontract, the status of the Subcontractor, and the nature and location of the work. The Subcontractor shall flow down to sub-tier subcontractors the clauses as specified in those Attachments.

Section J - List of Documents, Exhibits, and Other Attachments

J1. Incorporated Documents

The following documents are incorporated as a part of this Subcontract.

Number	Description/Title	Revision and/or Date
J-1	FRA General Terms and Conditions for Services	June 2019
J-2	Insurance Requirements for Professional Services	July 2019
J-3	Statement of Work for LBNF NSCF Independent Design Review	September 10, 2019
J-4	Subcontractor's Corporate Quality Control Plan	
J-5	Small Business Subcontracting Plan	
J-6	Sub-Tier Subcontractors and Outside Associates and Consultants	

FERMI RESEARCH ALLIANCE, LLC
GENERAL TERMS AND CONDITIONS FOR SERVICES

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CLAUSE 1 - GENERAL PROVISIONS

1.1 DEFINITIONS

As used throughout this Subcontract, the following terms have the meanings set forth below:

“CFR” means the Code of Federal Regulations.

“Commercial item” and “commercially available off-the-shelf item (COTS)” have the meanings contained in Federal Acquisition Regulation, FAR, 2.101, Definitions.

“DEAR” means the Department of Energy Acquisition Regulation.

“DOE” means the United States Department of Energy or any duly authorized representative thereof.

“FRA” means Fermi Research Alliance, LLC, acting as operator and manager of the Fermi National Accelerator Laboratory under United States Department of Energy Prime Contract No. DE-AC02-07CH11359, and includes any successor to that Prime Contract or any duly authorized representatives thereof. FRA is the contracting entity for this Subcontract.

“FAR” means the Federal Acquisition Regulation.

“Fermilab” means the physical site and property that is the Fermi National Accelerator Laboratory.

“FRA Procurement Representative” shall mean the person in charge of administering this Subcontract for FRA or his or her written designee.

“Government” means the Government of the United States acting through the United States Department of Energy or its successor.

“Subcontract” means this Subcontract between FRA and the Subcontractor. “Sub-subcontracts” means the Subcontractor’s subcontracts. Except as otherwise provided in this Subcontract, “sub-subcontracts” includes purchase orders under this Subcontract.

“Subcontractor” means the party that has entered into this Subcontract with FRA. The lower case “subcontractor” means sub-subcontractors.

When an article, provision, or clause in this Subcontract uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless:

- (a) The solicitation, or amended solicitation, provides a different definition;
- (b) The contracting parties agree to a different definition in the Subcontract;
- (c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (d) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

When a solicitation provision or contract clause uses a word or term that is defined in the Department of Energy Acquisition Regulation (DEAR) (48 CFR chapter 9), the word or term has the same meaning as the definition in 48 CFR 902.101 or the definition in the part, subpart, or section of 48 CFR chapter 9 where the

provision or clause is prescribed in effect at the time the solicitation was issued, unless an exception in 1.1 applies.

1.2 SCOPE OF SUBCONTRACT (SERVICES)

The scope of this Subcontract is to provide services as set forth in the Subcontract, Statement of Work, and incorporated documents.

This Subcontract is entered into under FRA's Prime Contract No. DE-AC02-07CH11359 with DOE for the operation and management of the Fermi National Accelerator Laboratory.

1.3 INDEPENDENT CONTRACTOR

The Subcontractor is, and shall act as, an independent Subcontractor and the Subcontractor shall not be or act as the agent, employee or servant of FRA or the Government. Without limiting the generality of the foregoing, it is understood and agreed that:

- (a) All persons employed by the Subcontractor in the performance of this agreement shall be employees of the Subcontractor and not employees of FRA or the Government,
- (b) This Subcontract does not create a joint employer relationship for FRA or the Government; and
- (c) The Subcontractor shall not enter into any contract with a third party which purports to obligate or bind FRA or the Government.

1.4 ASSIGNMENT

Neither this Subcontract nor any interest therein nor claim thereunder shall be assigned or transferred by the Subcontractor except as expressly authorized in writing by FRA. FRA may assign, without Subcontractor's consent, the whole or any part of this Subcontract to the Government or its designee or to a successor contractor for operation and management of the Fermi National Accelerator Laboratory, and in such event this Subcontract shall continue in full force and effect.

1.5 ACCEPTANCE OF SUBCONTRACT

The Subcontractor's written acceptance of this Subcontract or the performance of any portion of this Subcontract shall constitute the Subcontractor's unqualified acceptance of this Subcontract and all the Subcontract's terms and conditions. Any alterations made to the documents comprising this Subcontract or any conditions imposed by the Subcontractor upon its written acceptance of this Subcontract are not accepted, shall only constitute a proposal for modification of the Subcontract, and shall have no effect on the validity or the Subcontractor's acceptance of this Subcontract and its terms and conditions, anything to the contrary notwithstanding.

1.6 TIME IS OF THE ESSENCE

Subcontractor acknowledges and agrees that time is of the essence in the performance of the work required by the Subcontract.

CLAUSE 2 - PAYMENT (SERVICES)

Once each month (or at more frequent intervals, if approved by FRA in writing), the Subcontractor may submit to FRA invoices or vouchers in such form and detail and supported by such documents as

provided below. Within 30 days after receipt of each invoice or voucher FRA shall, subject to the provisions of this Subcontract, make payment thereon as approved by FRA. FRA shall have the right, in the event of a breach by Subcontractor of any provision of this Subcontract, to withhold amounts for losses or damages resulting or threatened as a result of such breach, provided any amounts not in dispute are timely paid. Subcontractor shall not stop, slow or suspend performance of its services on account of a good faith dispute between FRA and Subcontractor as to the appropriate sum due and payable to Subcontractor under this Subcontract.

In connection with any discount offered, time will be computed from the date of completion of the performance of the services or from the date the correct invoice or voucher is received at the office specified by FRA, whichever is later. Payment is made, for discount purposes, when the check is mailed.

At any time prior to final settlement under this Subcontract, representatives of FRA or its designees will have access to and the right to audit Subcontractor's invoices, vouchers, statement of cost, books and records to determine the correctness and propriety of payments made under this Subcontract. Each payment theretofore made shall be subject to adjustment for amounts included in the related invoice or voucher on the basis of such audit. Any payment may be reduced for overpayments, or increased for under payments, on preceding invoices or vouchers. The Subcontractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Subcontractor or any assignee under this Subcontract shall be paid by the Subcontractor to FRA, to the extent that they are properly allocable to costs for which the Subcontractor has been reimbursed by FRA under this Subcontract. Reasonable expenses incurred by the Subcontractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by FRA.

Claims for payment shall be accompanied by such supporting documents and justification as FRA shall require and shall be made in writing to FRA within thirty (30) days' of discovering the claim.

Subcontractor shall maintain detailed, complete, and accurate accounting records satisfactory to FRA.

CLAUSE 3 - STANDARD OF PERFORMANCE (SERVICES)

Subcontractor shall perform the services in a professional, skillful and competent manner in accordance with the standards of care and quality practiced by reputable and recognized subcontractors with national experience in performing similar services for projects of similar size, scope and complexity in a similar location.

CLAUSE 4 - LICENSES AND PERMITS

The Subcontractor shall maintain all applicable licenses and permits in good standing with the appropriate jurisdiction or governing body throughout the term of this Subcontract. Subcontractor shall immediately notify FRA of any change in the good standing status of its licenses or permits. Failure by the Subcontractor to maintain applicable licenses in good standing or permits is cause for immediate termination of this Subcontract by FRA.

CLAUSE 5 - CHANGES AND MODIFICATIONS

5.1 CHANGES (SERVICES)

FRA may, at any time, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Subcontract, including changes:

- (a) In the description of services to be performed;
- (b) In the time of performance of services; or

- (c) In the place of performance of the services.

Except as provided in this clause, no order, statement, or conduct of FRA shall be treated as a change under this clause or entitle the Subcontractor to an equitable adjustment.

The Subcontractor must assert its right to an equitable adjustment under this clause, within 30 days after receipt of a written change order and submit a proposal for equitable adjustment supported by all documentation required by FRA to analyze the request. The Subcontractor shall perform the services in accordance with the changes ordered by FRA upon receipt of the written change order.

No claim by the Subcontractor for an equitable adjustment based on changes made by FRA shall be allowed if asserted after final payment under this Subcontract. Each change order shall constitute a final settlement of all matters relating to the change in the work which is the subject of the change order, including but not limited to, all adjustments to the Subcontract price and time for performance, if any, included with that change order. No course of conduct or dealing between the parties, no express or implied acceptance of alterations or additions to the work and no claim that FRA has been unjustly enriched by an alteration or addition to the work, whether there is any unjust enrichment, shall be the basis of any claim for adjustment in compensation due the Subcontractor or in connection with the work or for adjustment in any time period provided for under the Subcontract. Moreover, the Subcontractor hereby waives and forfeits all claims that any work, services or other activities were performed pursuant to any contract or other agreement separate from the Subcontract. Subcontractor shall not receive any additional compensation or any adjustment in the Subcontract price or time of performance in connection with any work, services or other activities of the Subcontractor pertaining to the work unless such work, services or other activities is authorized in a change order or a written directive, as more specifically described in this section.

5.2 MODIFICATION PROPOSALS - PRICE BREAKDOWN

The Subcontractor, in connection with any proposal made for a Subcontract modification, shall furnish a price breakdown, itemized as required by FRA. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, sub-subcontract, and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount claimed for sub-subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification therefore shall also be furnished. The justification shall be furnished by the date specified by FRA.

When costs are a factor in any determination of a Subcontract price adjustment under any clause of this Subcontract, such costs shall be in accordance with the contract cost principles and procedures in Subpart 31.2 of the FAR and Subpart 931.2 of the DEAR in effect on the date of this subcontract.

CLAUSE 6 - INDEMNIFICATION AND LIABILITIES

6.1 INDEMNIFICATION

The Subcontractor shall indemnify and hold harmless FRA, The University of Chicago, Universities Research Association, Inc., and the United States Government, their officers, agents, servants, and employees from any and all liability for losses, expenses, damages, demands, and claims, and shall defend any claim, suit, or action brought against any or all of them based on any alleged personal injury or property damage, and shall pay any damages, costs, and expenses, including attorneys' fees, in connection with or resulting from such claim, suit, or action that arise in whole or in part from:

- (a) Subcontractor's breach of any term or provision of the subcontract documents, or

- (b) any negligent or willful act or omission of the Subcontractor, its employees, agents, of subcontractors, material suppliers, or anyone for whose acts they may be liable, regardless of whether such liability, claim, damage, loss, penalty, forfeiture, fine, or suit is caused in part by a party indemnified hereunder.

The obligations of the Subcontractor under this Clause regarding liability and indemnification will survive the final completion or termination of this Subcontract.

6.2 ASSUMPTION OF RISK UNTIL FINAL ACCEPTANCE

The Subcontractor assumes all risks and responsibility for damage to its work and materials from fire, earthquake, storm, or other causes prior to the completion and final acceptance of the work by FRA. The Subcontractor shall, at its own expense, repair and/or replace any work or materials damaged or destroyed. Subcontractor (i) acknowledges and agrees that operations will be ongoing at Fermilab during performance of the Subcontractor's work, and (ii) agrees to perform Subcontractor's work in such a manner so as to (a) not interfere with such operations or inconvenience FRA's employees or agents at Fermilab and (b) cooperate and coordinate the Subcontract work with others at Fermilab as directed by FRA.

6.3 THEFT

Necessary precautions for safeguarding material and equipment will be the responsibility of the Subcontractor. In addition, the Subcontractor shall immediately notify the FRA Procurement Administrator of the theft, providing the following information:

Name and phone number of person making report.

Description of missing property; i.e., make and color (if available), model number, serial number and value. Indicate ownership, if Government, furnish Government Identification No.

Date and time theft took place or was discovered.

Date and time property was last known to be in proper place.

Any other information which might be pertinent.

CLAUSE 7 - TERMINATION AND NON-WAIVER OF DEFAULTS

7.1 TERMINATION

FRA may terminate this Subcontract in accordance with the FAR clauses relating to Termination for Convenience of the Government or Default that are incorporated by reference into these General Terms and Conditions, at the Clause titled, Special Government Flow Down Provisions.

In addition, FRA may terminate this Subcontract for any material default by the Subcontractor relating to any Subcontract article, clause, or requirement, including but not limited to the environmental, safety, and health requirements.

7.2 NON-WAIVER OF DEFAULTS

Any failure by FRA at any time, or from time to time, to enforce or require the strict keeping and performance of any of the terms or conditions of this Subcontract shall not constitute a waiver of such terms or conditions and shall not affect or impair such terms or conditions in any way, or the right of FRA at any time to avail itself of such remedies as it may have for any breach or breaches of such terms or conditions.

The rights and remedies of FRA in this clause are in addition to any other rights and remedies provided by law under this Subcontract.

CLAUSE 8 - LAWS AND REGULATIONS; DISPUTES; APPLICABLE LAW

8.1 LAWS AND REGULATIONS

All delivered items and all services performed under this Subcontract shall be in compliance with all applicable federal, state, and local laws, ordinances, statutes, codes, rules and regulations (including DOE regulations), including but not limited to those relating to wages, hours, employment, discrimination, immigration, and safety. The Subcontractor also shall comply with the Contractor Requirements Document (CRD) of any DOE Directive referenced within the Subcontract or these General Terms and Conditions.

8.2 DISPUTES

The parties agree to cooperate in resolving any claims, controversies or disputes that may arise out of or relate to this Subcontract, the breach thereof, or the Subcontract Work, (collectively, "Dispute" or "Disputes"). The parties are committed to resolving any Disputes in an amicable, professional and expeditious manner so as to avoid any unnecessary costs or delays to the Work.

Continuance of Work: The parties expressly agree and acknowledge that Work will not be stopped or slowed in any way during the pendency of any Dispute. Subcontractor shall continue to prosecute the Work pending final resolution or determination thereof, unless requested by FRA to suspend Subcontract Work, provided that FRA continues to pay Subcontractor as provided herein for all Subcontract Work not subject to a Dispute.

Step Negotiations: FRA and Subcontractor will first attempt to resolve Disputes at the field level through discussions between FRA's Project Manager and the Subcontractor's Project Manager. If a Dispute cannot be resolved at the field level, upon the request of either party, the Dispute shall be directed to FRA's Procurement Manager and Subcontractor's Executive Corporate Representative (collectively "Senior Representatives") who shall meet as soon as conveniently possible, but in no case later than thirty (30) days after such a request is made, to attempt to resolve such Dispute. Prior to any meetings between the parties, the parties will exchange relevant information that will assist the parties in resolving their Dispute.

Mediation: If the Dispute is not resolved through negotiations between the Senior Representatives, the parties will submit the matter to mediation.

Binding Dispute Resolution: At the sole option and decision of FRA, all Disputes not resolved by Step Negotiations or Mediation shall be decided by confidential, binding arbitration, administered jointly by the parties to the arbitration and otherwise in accordance with the Construction Industry Dispute Resolution Procedures of the AAA then in effect, before the Arbitrator. Execution of this Subcontract represents Subcontractor's express consent and agreement to arbitrate Disputes if so chosen by FRA. Notice of demand for arbitration must be filed in writing with the other parties to the arbitration. If FRA does not elect arbitration, the parties shall proceed to litigation. In no event may the demand for arbitration be

made after institution of legal or equitable proceedings based on the Dispute would be barred by the applicable statute of limitations.

Each party shall produce all documents relevant to the Dispute. Each party shall be entitled to depose no more than six (6) fact witnesses for no longer than six (6) hours each. Each party shall be entitled to depose any and all retained expert opinion witnesses for no longer than six (6) hours each. All discovery disputes shall be decided by the Arbitrator. The Arbitrator may modify these discovery limitations for good cause shown.

The Arbitrator shall have authority to order specific performance, including, without limitation, interim injunctive relief prior to the Dispute being resolved and any final injunctive relief warranted. The Arbitrator shall have the authority to decide all issues concerning the fulfillment of any condition precedent to the arbitrability of a claim or defense; the amount of damages to be awarded, if any; and the arbitrability of the issues presented as well as to resolve all Disputes, including, without limitation, all federal, state, and local statutory claims. The Arbitrator is not empowered to award damages in excess of compensatory damages such as punitive damages.

The award of the Arbitrator shall be enforceable in any court of competent jurisdiction, and each party consents and submits to the jurisdiction of such court for purposes of such action.

Joinder of Parties: At either party's option, third parties may be joined in any of the dispute resolution processes listed above, by consolidation, joinder, or otherwise, who are subject to a valid alternative dispute resolution agreement with the party seeking joinder of such third party.

8.3 APPLICABLE LAW

To the extent that Federal law does not exist and state law could become applicable to this Subcontract, the law of Illinois shall apply.

CLAUSE 9 - RELEASE OF INFORMATION

The Subcontractor agrees that information regarding this Subcontract, any data developed or obtained in the course of performing this Subcontract, and the name of FRA, Fermi National Accelerator Laboratory, Fermilab, the United States Government, or the United States Department of Energy shall not be disclosed in any publications, news releases, advertising, speeches, technical papers, photographs, and other releases of information without prior written approval from the FRA Procurement Representative.

CLAUSE 10 - NOTIFICATIONS

The Subcontractor shall immediately notify the FRA Procurement Representative in writing of: (1) any action, including any proceeding before an administrative agency, filed against the Subcontractor arising out of the performance of this Subcontract; and (2) any claim made against the Subcontract, the cost of which is or is claimed to be reimbursable under this Subcontract.

If, at any time during the performance of this Subcontract, the Subcontractor becomes aware of any circumstances which may jeopardize its performance of all or any portion of the Subcontract, it shall immediately notify the FRA Procurement Representative in writing of such circumstances, and the Subcontractor shall take whatever action is reasonably necessary to resolve such circumstances within the shortest possible time.

CLAUSE 11 - ENTIRE AGREEMENT AND ORDER OF PRECEDENCE

This Subcontract shall consist of the Subcontract document (including any signature page), Purchase Order (if applicable), these General Terms and Conditions and any other referenced or incorporated

clauses, provisions, and documents. Together, they are the entire agreement between the parties concerning the subject matter and they supersede all prior proposals, representations, negotiations, or agreements, whether written or oral.

Any inconsistencies in the terms and conditions comprising the Subcontract shall be resolved by giving precedence in the following order: (a) the Subcontract document (b) these General Terms and Conditions including the FAR and DEAR clauses incorporated by reference; (c) any specifications or drawings; (d) other documents listed in the Subcontract as Incorporated Documents, if any, in the order in which they are listed; and (e) any other referenced or incorporated clauses, provisions, or documents.

CLAUSE 12 - SITE AND FACILITIES ACCESS

All Subcontractor and lower-tier subcontractor employees requiring access to any Fermilab facility or sites, including on-site or remote access to Fermilab/FRA computer systems, are subject to DOE access restrictions. Any questions should be directed to either the subcontract designated Technical Representative or the FRA Procurement Administrator.

- (a) The Subcontractor shall not assign foreign national (non-U.S. citizen) employees or other personnel to work at any Fermilab facility or site, including through on-site or remote access to Fermilab/FRA computer systems, who were born in, are citizens of, are employed or sponsored by or represent a government, company, institution, or other organization based in a country on the Department of State's List of State Sponsors of Terrorism without prior written approval from DOE Headquarters. Terrorist-sponsoring countries currently include Iran, Sudan and Syria, but may be updated from time to time by the State Department. Requests for access must be submitted to the FRA Procurement Administrator at least 180 days in advance to allow time for approval from the DOE.
- (b) FRA also is required by DOE to document all foreign national employees who were born in, are citizens of, are employed or sponsored by or represent a government, company, institution or organization based in, a sensitive country and who require access to a Fermilab facility or site, including either on-site or remote access to Fermilab/FRA computer systems. To obtain site access, the Subcontractor must provide the place of birth and citizenship for all foreign national employees/personnel working on this subcontract who may access a Fermilab facility or site, including on-site or remote access to Fermilab/FRA computer systems. Employees/personnel from specific sensitive countries may need additional processing and/or be subject to specific restrictions as required by DOE Order 142.3A.

CLAUSE 13 - ENVIRONMENT, SAFETY & HEALTH (ES&H)

The Subcontractor shall take all reasonable precautions in the performance of this Subcontract to protect the health and safety of employees, sub-subcontractor employees, FRA employees, and members of the public, to minimize danger from all hazards to life and property, and to prevent injury to any employees or other persons. The safety of all persons employed by the Subcontractor and its subcontractors on the Fermilab site, or other Government premises, or any other person who enters on the sites or premises for reasons relating to this Subcontract, shall be the sole responsibility of the Subcontractor.

The Subcontractor shall comply with all applicable environmental, safety, health, and fire protection laws, regulations, orders, and requirements (including reporting requirements), including those of DOE. The Subcontractor shall comply with FRA's environmental, safety, and health requirements for any work performed at the Fermilab site.

The Subcontractor shall immediately take action to correct any noncompliance with the environmental, safety, and health requirements of this Subcontract. If the Subcontractor fails to comply with the

environment, safety, and health requirements, FRA may, without waiver of any other legal or contractual rights or remedies, issue a stop-work order that stops all or any part of the work under this Subcontract. Thereafter, a start order for resumption of any or all work may be issued at the discretion of FRA. The Subcontractor may not make any claim for an extension of time or for compensation or damages in connection with any work stoppage under this provision.

CLAUSE 14 - STOP-WORK ORDER (FAR 52.242-15 (AUG 1989))

FRA may, at any time, by written order to the Subcontractor, require the Subcontractor to stop all, or any part, of the work called for by this Subcontract contract for a period of 90 days after the order is delivered to the Subcontractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Subcontractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Subcontractor, or within any extension of that period to which the parties shall have agreed, FRA shall either:

- (1) Cancel the stop-work order; or
- (2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of FRA, clause of this contract.

If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Subcontractor shall resume work. FRA shall make an equitable adjustment in the delivery schedule or Subcontract price, or both, and the Subcontract shall be modified, in writing, accordingly, if—

- (1) The stop-work order results in an increase in the time required for, or in the Subcontractor's cost properly allocable to, the performance of any part of this Subcontract; and
- (2) The Subcontractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if FRA decides the facts justify the action, FRA may receive and act upon the claim submitted at any time before final payment under this Subcontract.

If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of FRA, FRA shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

If a stop-work order is not canceled and the work covered by the order is terminated for default, FRA shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

CLAUSE 15 - INSURANCE

Insurance requirements for this Subcontract are established by FRA as the contracting entity. Before undertaking any work under this Subcontract, the Subcontractor shall, except as otherwise approved by FRA, comply with the Insurance Requirements Exhibit to this Subcontract, which are based upon levels of risk, and provide the applicable certificates of insurance as set out in the Insurance Requirements Exhibit.

The Subcontractor shall indemnify FRA for any expense incurred or loss suffered by FRA for the failure of the Subcontractor to comply with the provisions of this clause or the Insurance Requirements for this Subcontract.

CLAUSE 16 - SERVICE CONTRACT LABOR STANDARDS

This Subcontract is subject to the Service Contract Labor Standards statute (41 U.S.C. chapter 67) and the related FAR provisions that are incorporated by reference in the Clause titled Special Government Flow Down Provisions, unless the Subcontract is performed by employees in bona fide executive, administrative, or professional capacity (as excluded from the definition of service employees in the Service Contract Labor Standards statute) or it is subject to another exclusion or exemption by the Secretary of Labor or in the Service Contract Labor Standards statute (41 U.S.C. § 6702, as interpreted in 29 CFR Part 4, Subpart C).

CLAUSE 17 - SPECIAL GOVERNMENT FLOW DOWN PROVISIONS (SERVICES)

The Federal Acquisition Regulation (FAR) and Department of Energy Acquisition Regulation (DEAR) clauses listed below are incorporated by reference into this Subcontract, with the same force and effect as if they were written out in full verbatim text. The full texts of the clauses are located in Chapters 1 and 9 of Title 48 of the Code of Federal Regulations and are available at <https://www.gpo.gov/fdsys/> or <https://www.acquisition.gov>.

The threshold categories below are additive, meaning that the clauses listed for each threshold level apply to any Subcontract within that or any higher threshold level of applicability.

As used in these incorporated clauses, the following terms will have the meanings listed below:

“Contract” shall mean this Subcontract

“Contractor” shall mean the Subcontractor

“Subcontractor” in lower case shall mean the Subcontractor’s subcontractors (i.e., lower tier subcontractors)

“Government” and “Contracting Officer” shall mean FRA, except as specifically noted below

The Subcontractor shall include the listed provisions in its subcontracts, at any tier, to the extent applicable. The version of the provision in force at the time of execution of this Subcontract or any sub-subcontracts shall control.

THE FOLLOWING CLAUSES APPLY TO ALL SUBCONTRACTS

FAR 52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (JAN 2017)
FAR 52.204-9	PERSONAL IDENTITY VERIFICATION OF SUBCONTRACTOR PERSONNEL (JAN 2011)
FAR 52.204-21	BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016) Applies if subcontractor has federal contract information residing in or transiting through its information system.
FAR 52.204-23	PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES (JAN 2019)
FAR 52.208-8	REQUIRED SOURCES FOR HELIUM AND HELIUM USAGE DATA (AUG 2018)
FAR 52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 2018) Applies if the Subcontract involves any further subcontracting opportunities.
FAR 52.222-1	NOTICE OF LABOR DISPUTES (FEB 1997)

- FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APR 2015)
- FAR 52.222-26 EQUAL OPPORTUNITY (SEPT 2016)
 NOTE: DOWNLOAD THE EEO POSTER AT:
<https://www.dol.gov/ofccp/regs/compliance/posters/pdf/eeopost.pdf>
- FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (JAN 2019)
- FAR 52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DEC 2015)
- FAR 52.223-9 ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA DESIGNATED ITEMS (MAY 2008)
- FAR 52.223-15 ENERGY EFFICIENCY IN ENERGY CONSUMING PRODUCTS (DEC 2007)
- FAR 52.223-17 AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (AUG 2018)
- FAR 52.223-18 ENCOURAGING POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)
 Applies to driving on Fermilab site or DOE owned or leased property
- FAR 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)
- FAR 52.224-2 PRIVACY ACT (APR 1984)
- FAR 52.225-1 BUY AMERICAN ACT – SUPPLIES (MAY 2014)
- FAR 52.225-8 DUTY-FREE ENTRY (OCT 2010)
- FAR 52.225-13 RESTRICTION ON CERTAIN FOREIGN PURCHASES (JUN 2008)
- FAR 52.227-3 PATENT INDEMNITY (APR 1984)
- FAR 52.227-14 RIGHTS IN DATA – GENERAL (MAY 2014), with ALTERNATE V (DEC 2007) and DEAR 927.409(d)(3), and substituting paragraph (a) with DEAR 927.409(a).
 Applies if any “data” will be produced, furnished, or acquired under the Subcontract
- If delivery of Limited Rights Data (as defined in FAR 52.227-14(a)) is required, then ALTERNATE II applies, with the following disclosure purposes added to the end of paragraph (a) of the Limited Rights Notice:
1. Use (except for manufacture) by support services contractors or subcontractors;
 2. Evaluation by non-government evaluators;
 3. Use (except for manufacture) by other contractors or subcontractors participating in the Government’s program of which the specific subcontract is a part;
 4. Emergency repair or overhaul work; and
 5. Release to a foreign government, or its instrumentalities, if required to serve the interests of the U.S. Government, for information or evaluation or for emergency repair or overhaul work
- If delivery of Restricted Computer Software (as defined in FAR 52.227-14(a)) is required, then ALTERNATE III applies
- FAR 52.227-16 ADDITIONAL DATA REQUIREMENTS (JUN 1987)

FAR 52.232-1 PAYMENTS (APR 1984)

FAR 52.232-39 UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS (JUNE 2013)

FAR 52.232-40 PROVIDING ACCELERATED PAYMENT TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)

FAR 52.242-14 SUSPENSION OF WORK (APR 1984)
Applies if the Subcontract involves an architect or engineer.

FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (JAN 2019)
Applies to Subcontractor's sub-subcontracts for commercial items

FAR 52.246-4 INSPECTION OF SERVICES – FIXED PRICE (AUG 1996)

FAR 52.247-63 PREFERENCE FOR U.S. FLAG AIR CARRIERS (JUN 2003)

FAR 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S. FLAG COMMERCIAL VESSELS (FEB 2006)

FAR 52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (APR 2012)

FAR 52.249-8 DEFAULT (FIXED-PRICED SUPPLY AND SERVICE) (APR 1984)

DEAR 927.303(c) FACILITIES LICENSE (DEC 2000)

DEAR 952.203-70 WHISTLEBLOWER PROTECTION FOR SUBCONTRACTOR EMPLOYEES (DEC 2000)
Applies if the Subcontract involves any work at the Fermilab site or DOE-owned or leased property

DEAR 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS (MAR 2011)
Applies if any nuclear technology information will be made available to foreign nationals of sensitive foreign nations

DEAR 952.204-77 COMPUTER SECURITY (AUG 2006)
Applies if Subcontractor has access to any computers owned, leased, or operated by or on behalf of FRA or DOE

DEAR 952.227-9 REFUND OF ROYALTIES (MAR 1995)
Applies if subcontract price includes amounts for royalties payable to Subcontractor

DEAR 952.227-11 PATENT RIGHTS – RETENTION BY CONTRACTOR (SHORT FORM) (MAR 1995)
Applies to agreements with small business for experimental, research and development, demonstration, or design work

DEAR 952.227-13 PATENT RIGHTS – ACQUISITION BY THE GOVERNMENT (SEP 1997)
Applies to agreements with non-small business for experimental, research and development, demonstration, or design work

DEAR 952.227-82 RIGHTS TO PROPOSAL DATA (APR 1994)
Applies if the Subcontract is based on a technical proposal

DEAR 952.247-70 FOREIGN TRAVEL (JUN 2010)

DEAR 970.5208-1 PRINTING (DEC 2000)

Applies if the Subcontract requires printing

DEAR 970.5222-1 COLLECTIVE BARGAINING AGREEMENTS – MANAGEMENT AND OPERATING CONTRACTS (DEC 2000)

Applies if the Subcontract is for protective services or other services that affect continuity of operation of the Fermilab facility

DEAR 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010)

Applies if the Subcontract involves work at Fermilab site or on DOE-owned or leased property

DEAR 970.5225-1 COMPLIANCE WITH EXPORT CONTROL LAWS AND REGULATIONS (NOV 2015)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS THE SIMPLIFIED ACQUISITION THRESHOLD, DEFINED IN FAR PART 2

FAR 52.203-5 COVENANT AGAINST CONTINGENT FEES (MAY 2014)

FAR 52.203-6 RESTRICTIONS ON SUB-SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)

FAR 52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLE BLOWER RIGHTS (APR 2014)

FAR 52.215-2 AUDITS AND RECORDS-NEGOTIATION (OCT 2010)

Applies if not a Subcontract for commercial items or otherwise exempt under FAR 15.403-1

FAR 52.222-17 NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014)

FAR 52.229-3 FEDERAL, STATE, AND LOCAL TAXES (FEB 2013)

DEAR 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009), with ALTERNATE I (AUG 2009)

Applies if the Subcontract involves advisory and assistance services as defined in FAR 2.101

DEAR 970.5223-7 SUSTAINABLE ACQUISITION PROGRAM (OCT 2010)

Applies to first tier Subcontracts that offer significant subcontracting opportunities for energy efficient or environmentally sustainable products or services

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$2,500 AND IS NOT EXEMPT OR EXCLUDED FROM THE SERVICE CONTRACT LABOR STANDARDS STATUTE OR BY THE SECRETARY OF LABOR

FAR 52.222-41 SERVICE CONTRACT LABOR STANDARDS (AUG 2018)

FAR 52.222-43 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS – PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (AUG 2018)

FAR 52.222-44 FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDS – PRICE ADJUSTMENT (MAY 2014)

Applies if not a multiple year or option contract

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$3,500

FAR 52.222-3 CONVICT LABOR (JUN 2003)

FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$10,000

FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$15,000

FAR 52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014)

FRA and the Subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT IS FOR \$30,000 OR MORE

FAR 52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2018)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$35,000

FAR 52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$100,000

FAR 52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

DEAR 970.5227-5 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2000)

In this clause, "Government" shall mean the United States Government and "Contracting Officer" shall mean the DOE Contracting Officer for Prime Contract No. DE-AC02-07CH11359

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$150,000

FAR 52.203-7 ANTI-KICKBACK PROCEDURES (MAY 2014)
Excluding paragraph (c)(1)

FAR 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)

FAR 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS – OVERTIME COMPENSATION (MAY 2014)
Applies unless exempt under FAR 22.305

FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (OCT 2015)

FRA and the Subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.

FAR 52.222-37 EMPLOYMENT REPORTS ON VETERANS (FEB 2016)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$500,000

FAR 52.204-14 SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)
Applies unless exempt or excluded from the Service Contract Act of 1965, as amended

DEAR 952.226-74 DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT THAT EXCEEDS \$700,000

FAR 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (AUG 2018)
Applies unless the Subcontractor is a small business or there are no subcontracting possibilities

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$2,000,000 AND MEETS THE REQUIREMENTS FOR SUBMISSION OF CERTIFIED COST OR PRICING DATA AT FAR 15.403-1(b) AND 15.403-4 (CLASS DEVIATION 2018-00015 (MAY 2018))

FAR 52.215-10 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA (AUG 2011) (CLASS DEVIATION 2018-00015 (MAY 2018))

FAR 52.215-11 PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA – MODIFICATIONS (AUG 2011) (CLASS DEVIATION 2018-00015 (MAY 2018))

FAR 52.215-12 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA (OCT 2010) (CLASS DEVIATION 2018-00015 (MAY 2018))

FAR 52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA – MODIFICATIONS (OCT 2010) (CLASS DEVIATION 2018-00015 (MAY 2018))

FAR 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997) (CLASS DEVIATION 2018-00015 (MAY 2018))

FAR 52.230-2 COST ACCOUNTING STANDARDS (OCT 2015) (CLASS DEVIATION 2018-00015 (MAY 2018))
Applies if the Subcontract is with a large business; is for other than a “commercial item” as defined in FAR 2.101; and is not otherwise exempt under 48 CFR 9903.201-1 or 9903.201-2

FAR 52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (OCT 2015) (CLASS DEVIATION 2018-00015 (MAY 2018))
Excluding paragraph (b). Applies if the Subcontract is with a large business; is for other than a “commercial item” as defined in FAR 2.101; is not otherwise exempt under 48 CFR 9903.201-1 or 9903.201-2; and the Subcontractor certifies that it is eligible for and elects to use modified CAS coverage, per 48 CFR 9903.201-2

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT EXCEEDS \$5,500,000

FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015)
Applies if the Subcontract has a performance period of more than 120 days. All disclosures of violation of the False Claims Act or of Federal criminal law shall be directed to the DOE Inspector General, with a copy to the DOE Contracting Officer for the Fermilab site

FAR 52.203-14 DISPLAY OF HOTLINE POSTER(S) (OCT 2015)
Modified by DEAR 903.1004. Applies unless Subcontract is for the acquisition of a commercial item or is performed entirely outside of the United States. Download the required Poster at <https://energy.gov/ig/downloads/office-inspector-general-hotline-poster>

**THE FOLLOWING CLAUSE APPLIES TO CONTRACTS SET ASIDE OR RESERVED FOR OR
AWARDED ON A SOLE SOURCE BASIS TO HUBZONE SMALL BUSINESS CONCERNS:**

FAR 52.219-3 NOTICE OF HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011)

Agreements limiting sub-subcontracting in sub-paragraphs (d) – (g) apply

(END OF GENERAL TERMS AND CONDITIONS FOR SERVICES SUBCONTRACTS)

INSURANCE REQUIREMENTS FOR PROFESSIONAL SERVICES

1. Insurance: This clause applies to work performed at the Fermi National Accelerator Laboratory (Fermilab) worksite and incorporates the insurance requirements of Fermi Research Alliance, LLC.

2. Minimum Insurance Coverage: Prior to commencement of work under this Subcontract, the Subcontractor shall, except as otherwise approved by FRA, take out and maintain at its own cost and expense, insurance coverages in at least the amounts listed below, and in companies satisfactory to FRA.

<u>LINE OF COVERAGE</u>	<u>LIMITS</u>		
GENERAL LIABILITY Commercial General Liability <input checked="" type="checkbox"/> Occurrence	EACH OCCURRENCE		\$1,000,000
	General Aggregate		\$2,000,000
AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> Occurrence Any Auto	COMBINED SINGLE LIMIT AND IN THE AGGREGATE Covering owned, non-owned, and hired automobiles		\$1,000,000
UMBRELLA LIABILITY <input checked="" type="checkbox"/> Occurrence	For General, Automobile & Employers Liability EACH OCCURRENCE AGGREGATE		\$5,000,000
PROFESSIONAL LIABILITY/ERRORS & OMISSIONS <input checked="" type="checkbox"/> Claims Made and in Aggregate			\$1,000,000
WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY	WC STATUTORY LIMITS	OTHER	As required by Illinois Law
	E.L. EACH ACCIDENT		\$1,000,000
	E.L. DISEASE EA EMPLOYEE		\$1,000,000
	E.L. DISEASE-POLICY LIMIT		\$1,000,000

3. Additional Insureds: Subcontractor's commercial general liability, auto liability, and umbrella liability policies shall provide by appropriate language that Fermi Research Alliance, LLC, the University of Chicago, Universities Research Association, Inc., and the United States Government are included as additional insureds as required by written contract.

4. Evidence of Insurance; Notice of Cancellation or Material Change in Coverage/Condition: The Subcontractor agrees to deliver to FRA within ten (10) days of the signing and delivery of this Subcontract, certificates evidencing compliance with the insurance requirements herein. The certificates shall state that waiver of subrogation is granted in favor of the additional insureds as required by written contract and that the insurance afforded by such policies is primary insurance, and that all rights of the insurer for contribution from other insurers are waived. The Subcontractor must provide thirty (30) days written notice to FRA of any cancellation or material change in the policies. FRA reserves the right to obtain replacement coverage if contractor does not and FRA may deduct the cost of the replacement

insurance from the subcontract total. The Subcontractor must agree to provide complete, certified copies of all required insurance policies if requested by FRA.

5. Sub-Subcontractor Insurance Requirements: Before permitting any sub-subcontractor to perform any work, the Subcontractor shall require that such sub-subcontractor furnish satisfactory evidence that it has taken out and maintains insurance in the same amounts and with the same provisions as required for the Subcontractor, unless sub-subcontractor provides exceptions to the stated limits (such as the professional liability minimum limit in section 1 above) that are reasonably acceptable to FRA and the Subcontractor.

6. Indemnification: The Subcontractor shall indemnify FRA for any expense incurred or loss suffered by FRA for the failure of the Subcontractor to comply with the insurance requirements for this Subcontract.

INDEPENDENT DESIGN REVIEW STATEMENT OF WORK

LBNF Near Site Conventional Facilities

9/10/2019

1. Background and Introduction

Fermi Research Alliance, LLC (FRA) will provide facilities to enable a world-class program in neutrino physics that can measure fundamental physical parameters, explore physics beyond the Standard Model, and better elucidate the nature of matter and anti-matter. The Long-Baseline Neutrino Facility (LBNF) Project will involve building a new high intensity neutrino beam at the Fermi National Accelerator Laboratory (Fermilab) aimed at the Sanford Underground Research Facility (SURF), 1,300 km away, where the Deep Underground Neutrino Experiment (DUNE) international scientific community will build a neutrino detector. The LBNF/DUNE Project will be optimized for precision measurement of neutrino oscillations with the goal of searching for charge parity-violation in the neutrino sector, as well as make other precision oscillation measurements.

The LBNF/DUNE Project will construct the Near Site Conventional Facilities (NSCF) at Fermilab on the north side of Fermilab's Main Injector, in the southwest corner of the laboratory. The LBNF NSCF main construction scope includes the buildings, enclosures, and site infrastructure that will house and support the LBNF Beamline and DUNE Near Detector, including the Pre-Target beamline facilities, Target Complex, Absorber Complex, Decay Region, Near Detector Complex, and project-wide Site Work to support the facility and experiment. This construction will involve deep surface excavations, protection of existing buried structures, deep foundations, complex concrete structures including mass concrete placements, shaft construction, rock excavation and rock support, geosynthetic water barrier systems, mechanical-electrical-plumbing fitout, utilities, access roads, grading and drainage, and other site improvements.

LBNF NSCF is a large, complicated underground project with a large amount of specialty concrete (over 100,000 cubic yards). The scope is dominated by the need to protect the environment from the adverse effects of radiation leading to the following requirements: the use of conventional materials in unconventional ways to construct a barrier between the conventional facilities and the groundwater; placements of massive amounts of radiation shielding concrete in a manner that minimizes cracking that would serve as paths for radiation; earthwork performed in a manner that allows for construction of a high-quality groundwater barrier and ensures its integrity.

2. Scope of Services

The fundamental purpose of the Independent Design Review (IDR), commonly known in the industry as a “Peer Review,” is to review design documentation with a detailed, unbiased, analytical approach. An IDR shall occur at the completion of the NSCF preliminary and final design phases. Design documentation will include, but is not limited to, drawings, specifications, calculations, and design reports. The IDR team is composed of resources outside the project team.

Areas of focus include:

- Quality of the design
- Design is sufficiently developed for the stage of the project
- Design documents comply with the design criteria
- Operational and functional objectives are met
- Interfaces identified and compatible
- Identify risks to the design

The IDR team shall:

- Review the documents for compliance with the Project program and purpose as well as with accepted standards of professional and technical practices.
- The IDR is to be for objective acceptability, and not personal preferences. The IDR team shall refrain from recommending or advocating changes that are merely personal preference.
- Recommend modifications and revisions as appropriate for the improvement of the Project.
- Prepare and present a comment matrix of the IDR team’s technical findings when review of the Documents is complete.
- Prepare and present a written report of the IDR team’s findings and recommendations when review of the Documents is complete.

2.1 Guiding Questions

The following are guiding questions for the IDR team to consider throughout the documentation review. These are the items that LBNF wants to understand. This list is meant to guide the review, but it is not exhaustive; the IDR team should consider questions beyond this list.

- Is the design complete for the design phase?
- Is the design constructible?
- Is the scope properly defined for the design phase?
- Are all ES&H and QA/QC requirements identified and properly defined?
- Is there any scope that you believe may be missing from the package?
- Is there any scope that you believe should be investigated further?
- Are any systems or design components candidates for Value Engineering analysis?
- Are the design documents clear and concise? If not, what details are missing that you believe could provide clarity to the documents?
- Are existing conditions well documented and comprehensive?

- Is the design compliant with FNAL standards, applicable codes, and standard industry practices?
- Are there risks to the design and/or constructability? Identify risks and propose risk mitigation opportunities.
- Are the systems sized appropriately for the required loads? Perform sanity checks for element sizes, system components, major equipment, and associated elements. Sanity checks shall be performed on, but not limited to, structural, architectural, mechanical, plumbing, electrical, fire protection elements.
- Has the system design accounted for loads from the beginning of construction through the end final condition?
- What systems, equipment, and elements require special study? Identify specific components requiring special study and steps to achieve appropriate design completeness.
- What potential defects, design weaknesses, or implementation flaws are apparent in the design?
- Does the design of the water barrier system meet objectives? Will it accommodate differential movement and temperature changes over the life of the facility? Is the water barrier system design constructible?
- Does the design accommodate settlement anticipated from the construction of the LBNF beamline facilities including the Primary Beam earth shielding embankment? Is the Main Injector adequately protected?

2.2 IDR Team Skill Sets

The NSCF requires skill sets across multiple conventional architectural and engineering disciplines, including the following:

- Architectural
- Civil
- Structural
- Mechanical
- Electrical
- Plumbing
- Geotechnical
- Miscellaneous specialties, including but not limited to Fire Protection

2.3 Tasks

The design will occur in two design phases, “Preliminary Design” and “Final Design,” each with a series of progress deliverables. An IDR shall occur at the completion of each design phase.

Task 1 Preliminary Design IDR

Task 2 Final Design IDR

3. TIMELINE

Anticipated design dates are listed below. For each Task, upon receipt of the design documents, the IDR consultant will have four weeks to review the design documents and deliver the comment matrix and report.

October 2019	Design Kick-off
April 2020	100% Preliminary Design Completed – IDR #1
October 2021	90% Final Design Completed* – IDR #2

*Comments received on the 90% Final Design deliverable will be incorporated into the 100% Final Design.

The IDR consultant shall be available for three meetings for each IDR. One meeting will be held prior to receipt of the design documentation to familiarize the IDR consultant with the design development; the second meeting will be held one week into the IDR team's review period to clarify questions they have about the design documentation; the third meeting will be held upon receipt of the IDR comments to review and discuss the consultant's comments.

4. Deliverables

The two main deliverables for the IDR are the comment matrix and the report; both of these deliverables are due four (4) weeks after receipt of the design documents.

IDR comments shall be in PDF format plus source documents in native format (Word, Excel, PowerPoint, P6, etc.). The format for the IDR comments will be discussed at the Kickoff meeting (described below), and the agreed upon template will be distributed to the IDR team.

4.1 Meetings

Task 1 and Task 2 will each have the following meetings throughout the IDR.

Meeting 1:

- 4-hour meeting
- In-person
- Timeline: Approximately one month prior to receipt of design documents (See Section 3 for design deliverable timeline)
- Purpose: Kickoff (Task 1) or Status (Task 2) meeting with IDR
 - Review expectations, guiding questions, status of design, and walk through various design aspects.
 - Review schedule upon receipt of Design Documents
 - Four weeks to review the design documents and deliver comment matrix and report

Meeting 2:

- 8-hour meeting
- Teleconference
- Timeline: Approximately one week after receipt of design documents
- Purpose: Clarify questions the IDR team has on the design documentation, including page turns of specific systems as needed.

Meeting 3:

- 4-hour meeting
- In-person
- Timeline: Approximately one week after delivering comments
- Purpose: Review comments, discuss areas of concern.

4.2 Comment Matrix

The IDR team shall prepare a comment matrix listing technical design comments and issues. Provide a level of concern (High/Medium/Low) associated with each comment.

Level of Concern Dictionary:

- High – This design issue presents significant risk to design performance to meet requirements, risk to safety of personnel and/or the facility, significant risk to the facility's life span. This design issue requires immediate attention to mitigate significant delays in the design schedule resulting in the design not meeting the requirements of the level of submission
- Medium – This design issue presents a moderate risk to design performance to meet requirements. This design issue requires attention prior to the next design level progression to mitigate design changes negatively impacting the design meeting the requirements of the level of submission.
- Low – This design issue presents a minimum risk to design performance to meet the requirements. This design issue may be neglected and has minimal impact to the design performance meeting the requirements of the level of submission.

4.3 Report

The IDR team shall prepare a report for each deliverable. The report shall be sealed by a professional engineer or structural engineer registered in the State of Illinois indicating that the report and any supporting calculations were prepared by or under the direct supervision of a licensed professional engineer or structural engineer for each discipline. This seal, however, in no way makes the IDR consultant liable for the design prepared by the design engineer or architect of record, as is consistent with the position of the National Society of Professional Engineers (NSPE) position statement No. 10-178.

Section K – Representations and Certifications

FL-6 Representations, Certification & Acknowledgement

FL-11 Organizational Conflict of Interest Certification

FL-105 Representations Regarding Proprietary Data

FL-106 Patent Terms and notice of Right to Request Patent waiver

FL-107 Rights to Proposal Data (Technical)

REPRESENTATIONS, CERTIFICATION & ACKNOWLEDGMENTS

Name and Address of Offeror:	RFQ/RFP/IFB No.
	Date of Offer

“Offeror” include “Bid” or “Bidder”

The offeror represents and certifies as part of this offer that (Check or Complete all applicable boxes or blocks):

1. TYPE OF BUSINESS ORGANIZATION

It operates as an ☐ individual ☐ a partnership, ☐ a nonprofit organization, ☐ a joint venture, ☐ or a corporation, ☐ incorporated under the laws of the State of _____, or country, _____, if a foreign entity.

2. PLACE OF SUBCONTRACT PERFORMANCE

Principal place of subcontract performance (if different from the Offeror’s address) will be at:

Street Address _____
 City _____, County _____, State _____, Zip Code _____
 Congressional District _____, Name & Address of Owner _____ & Operator of the
 Plant _____ or facility of other _____ than Offeror.

3. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

- (a) It ☐ has, ☐ has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order No. 10925, or the clause contained in Section 201 of Executive Order No. 11114;
- (b) It ☐ has, ☐ has not, filed all required compliance reports; and
- (c) Representations indicating submission of required compliance, reports, signed by proposed sub-subcontractors, will be obtained before sub-subcontract awards.

4. AFFIRMATIVE ACTION COMPLIANCE

(Non-construction work)

- (a) It ☐ has developed and has on file, ☐ has not developed and does not have on file, at each establishment affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2) or
- (b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

5. SMALL BUSINESS PROGRAM REPRESENTATIONS

(a) *Representations.*

- (i) The Offeror represents as part of its offer that it ☐ is, ☐ is not a **small business concern**.
- (ii) *[Complete only if the Offeror represented itself as a small business concern in paragraph (a)(i) of this provision.]*

The Offeror represents, for general statistical purposes, that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124. 1002.

- (iii) *[Complete only if the Offeror represented itself as a small business concern in paragraph (a)(i) of this provision.]*

The Offeror represents as part of its offer that it ☐ is, ☐ is not a woman owned small business concern.

- (iv) *[Complete only if the Offeror represented itself as a small business concern in paragraph (a)(i) of this provision.]* The

Offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

- (v) *[Complete only if the Offeror represented itself as a veteran-owned small business concern in paragraph (a)(i) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not, a service-disabled veteran-owned small business concern.

(iv) *[Complete only if the Offeror represented itself as a veteran-owned small business concern in paragraph (a)(i) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not, HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the small Business Administration, and no material change in ownership and control, principal office of ownership, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR 126.

(b) *Definitions.* As used in this provision –

- (i) “Service-disabled veteran-owned small business concern means a small business concern;
- (A) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more serviced-disabled veterans; and

(B) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(ii) Service disabled veteran means a veteran, as defined in 38 U.S.C.101(2), with a disability that is service-connected, as defined in 38 U.S.C 101(6).

(iii) "Small business concern" means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (a) of this provision.

(iv) "Veteran-owned small business concern" means a small business concern –

(A) Not less than 51 percent of which is owned by one or more veterans as described in 38 U.S.C. 101(2) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; a

(B) The management and daily business operations of which are controlled by one or more veterans.

(v) "Women-owned small business concern" means a small business concern –

(A) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(B) Whose management and daily business operation are controlled by one or more women.

6. BUY AMERICAN ACT CERTIFICATE

(Applicable only if the subcontract includes the FL-2 for supplies, the FL-4 for services, or the FL-90 For R&D)

(a) The Offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product as defined in the clause entitled "Buy American Act-Supplies" of the FL-2, the FL-4 or the FL-90 and that the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The offeror shall list as foreign end products those end products manufactured in the United States that do not qualify as domestic end products.

(b) Foreign End Products:

Line item No.	Country or Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) Fermi Research Alliance LLC (FRA) will evaluate offers in accordance with the policies and procedures of Part 25 of the Federal Acquisition Regulation.

7. NOTICE OF BUY AMERICAN ACT – CONSTRUCTION MATERIALS (MAY 2014)

7.1 Definitions. As used in this clause--

(a) Commercially available off-the-shelf (COTS) item—

(i) Means any item of supply (including construction material) that is--

(A) A commercial item (as defined in paragraph (i) of the definition at FAR 2.101);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(i) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

(b) Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

(c) Cost of components means--

(i) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(ii) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (i) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

- (d) Domestic construction material means--
- (i) An unmanufactured construction material mined or produced in the United States;
 - (ii) A construction material manufactured in the United States, if--
 - (A) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or
 - (B) The construction material is a COTS item.
- (e) Foreign construction material means a construction material other than a domestic construction material. United States means the 50 States, the District of Columbia, and outlying areas.
- 7.2 Domestic preference.**
- (a) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs 7.2(b) and 7.2(c) of this clause.
- (b) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:
- (c) The Contracting Officer may add other foreign construction material to the list in paragraph 7.2(b) of this clause if the Government determines that--
- (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
 - (ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
 - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.
- 7.3 Request for determination of inapplicability of the Buy American statute.**
- (a) (i) Any Contractor request to use foreign construction material in accordance with paragraph 7.2(c) of this clause shall include adequate information for Government evaluation of the request, including--
- (A) A description of the foreign and domestic construction materials;
 - (B) Unit of measure;
 - (C) Quantity;
 - (D) Price;
 - (E) Time of delivery or availability;
 - (F) Location of the construction project;
 - (G) Name and address of the proposed supplier; and
 - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph 7.2(c) of this clause.
- (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph 7.4 of this clause.
- (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
- (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (b) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph 7.2(c)(i) of this clause.
- (c) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American statute.¹
- 7.4 Data.** To permit evaluation of requests under paragraph 7.3 of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) ¹
Item 1			
Foreign construction material			

- Domestic construction material
- Item 2
- Foreign construction material
- Domestic construction material

Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).

List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.

Include other applicable supporting information.

8. COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS

By submission of its offer, the Offeror represents that, if it is subject to the reporting requirement of 38 U.S.C. 5212(d) (i.e., if it has any contract or subcontract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veteran, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

9. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) The prices in this offer have been arrived at independently, without, for the purpose of restricting completion, an consultation, communication, or agreement with any other Offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(b) The prices in this offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(c) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(d) Each signature on the offer is considered to be a certification by the signatory that the signatory –

(i) Is the person in the Offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated, and will not participate, in any action contrary to (a) through (c) above; or

(ii) (A) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to sub paragraphs (a) through (c) above _____ (insert full name of person(s) in the Offeror's organization responsible for determining the prices offered in this proposal, and the title of his or her position in the Offeror's organization);

(B) As an authorized agent, does certify that the principals named in subdivision (d)(ii)(A) above have not participated, and will not participate, in any action contrary to subparagraphs (a) through (c) above; and

(C) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a) through (c) above.

(e) If the Offeror deletes or modifies subparagraph (b) above, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

10. CERTIFICATION OF NONSEGREGATED FACILITIES

(a) "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race color, religion, or national origin because of habit, local custom, or otherwise.

(b) By the submission of this offer, the Offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the subcontract.

(c) The Offeror further agrees that (except where it has obtained identical certifications from proposed sub-subcontractors for specific time periods) it will –

(i) Obtained identical certifications from proposed Subcontractor before the award of subcontracts under which the sub-subcontractor will be subject to the Equal Opportunity clause:

(ii) Retain the certifications in the files; and

(iii) Forward the following notice to the proposed sub-subcontractor (except if the proposed sub-subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUB-SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NON-SEGREGATED FACILITIES. A Certification of Non-Segregated Facilities must be submitted before the award of a sub-subcontract under which the

sub-subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for each sub-subcontract or for all sub-subcontracts during a period (i.e. quarterly, semiannually, or annually).

11. TAXPAYERS IDENTIFICATION

(a) *Definitions.* (i) "Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the Offeror is a member.

(ii) "Corporate status," as used in this solicitation provision, means a designation as to whether the Offeror is a corporate entity, an unincorporated entity (e.g., sole proprietorship or partnership), or a corporation providing medical and health care services.

(iii) "Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the IRS to be used by the Offeror in reporting income tax and other returns.

(b) *Taxpayer Identification Number (TIN).*

☐ TIN: _____

☐ TIN has been applied for.

☐ TIN is not required because –

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U. S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state or local government;

☐ Other. State basis _____

(c) *Corporate status.*

☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

☐ Other corporate entity;

☐ Not a corporate entity;

☐ Sole proprietorship

☐ Partnership

☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(d) *Common Parent.*

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this clause.

☐ Name, address, and TIN of common parent:

Name _____

TIN _____

12. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS

(a) (i) The Offeror certifies, to the best of its knowledge and belief, that –

(A) The Offeror and/or any of its Principals –

(1) ☐ Are, ☐ are not presently debarred, proposed for debarment, or declared ineligible for the award of contracts by any federal agency.

(2) ☐ Have, ☐ have not, within a 3-year period preceding this offer been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; and

(3) ☐ Are, ☐ are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subparagraph (a)(i)(A)(2) of this certification.

(B) The Offeror ☐ has, ☐ has not, within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(ii) "Principals" for the purposes of this certification, means officers; directors; owners; partners; and persons having primary management of supervisory responsibilities within a business entity (e.g. general manager; plant manager; head of a subsidiary, division, or business segment, and similar position).

(b) The Offeror shall provide immediate written notice to FRA if, at any time prior to subcontract award the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's

responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by FRA may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this certification. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to FRA and the Government, FRA may terminate the subcontract resulting from this solicitation for default.

13. CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS

(Applicable only if subcontract exceeds \$100,000)

(a) The definitions and prohibitions contained in the clause, Limitation on Payments to Influence Certain Federal Transactions, included in this solicitation, (FL-1 or the FL-90, as appropriate), are hereby incorporated by reference in paragraph (b) of this certification.

(b) The Offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989 –

(i) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding this subcontract;

(ii) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, offeror shall complete and submit with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to FRA; and

(iii) He or she will include the language of this certification in all sub-subcontract awards at any tier and require that all recipients of sub-subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this subcontract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure:

14. ACKNOWLEDGEMENT OF AMENDMENTS

Offeror acknowledges receipt of amendments to the Solicitation for Offers and related documents numbered and dated as follows:

Amendment No.	Date	Amendment No.	Date

AUTHENTICATION BY OFFEROR

Name of Offeror: _____

By: _____
(Name of Person Authorized to Sign)

Name and title of Signor: _____

Date Signed: _____

NOTE: Offerors must provide accurate and complete information as required by this Solicitation and its attachments. The penalty for making false statements in offers is prescribed in 18 U.S.C 1001.

15. COMPLIANCE WITH PRIVACY REQUIREMENTS

By submission of its offer, Offeror certifies that it shall assist FRA in complying with section 208, of the E-Government Act of 2002, and Office of Management and Budget (OMB) directives related to the privacy requirements of the Privacy Act of 1974, as amended at Title 5 United States Code (U.S.C.) 552a. Offeror further certifies that it shall ensure all of employees are aware of their responsibility for Safeguarding Personally Identifiable Information and complying with the Privacy Act as specifically required under its subcontract.

ORGANIZATIONAL CONFLICT OF INTEREST (OCI) CERTIFICATION

RFQ or RFP # _____

I. REPRESENTATION/DISCLOSURE STATEMENT OF THE OFFEROR

[Explanation: The Offeror must complete either A or B of this section, but not both of the following Statements. If the Offeror perceives no OCI in connection with its organization's performance of the Statement of Work under this solicitation, the block for the OCI Representation Statement at subsection A should be checked. If the Offeror has identified possible OCI in connection with its organization's performance of the Statement of Work, the block for the OCI Disclosure Statement at subsection B should be checked, and the relevant information disclosed.]

☐

A. OCI Representation Statement

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, no facts exist relevant to any past (within the past twelve months), present, or currently planned interest or activity (financial, contractual, personal, organizational or otherwise) which relate to the proposed work; and bear on whether I have (or the organization has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice; or (2) being given an unfair¹ competitive advantage.

☐

B. OCI Disclosure Statement

I hereby certify (or as a representative of my organization, I hereby certify) that, to the best of my knowledge and belief, all relevant facts - - concerning past (within the past twelve months), present or currently planned interests or activities (financial, contractual, organizational or otherwise) which relate to the proposed work and bear on whether I have (or the organization has) a possible conflict of interest with respect to (1) being able to render impartial, technically sound, and objective assistance or advice, or (2) being given an unfair¹ competitive advantage - - are fully disclosed on the attached _____ page (s) and formatted to show:

- For ease of presentation, divide following data into four parts: Organizational, contractual, financial, other;

¹ An unfair competitive advantage does not include the normal flow of benefits from the performance of the subcontract.

- The company, agency, organization in which you have a past (within the past twelve months), present, or currently planned interest or activity (financial, contractual, organizational, or otherwise);
- A brief description of relationship;
- A period of relationship;
- The extent of relationship (e.g., value of financial interest of work; percent of total holdings, total work, etc.).

II. SUB-SUBCONTRACTOR/CONSULTANT OCI

Any sub-subcontractor or consultant identified in the Offeror's proposal who would perform evaluation services or activities, technical consulting services, or management support services similar to those to be performed by the Offeror has completed and signed either an OCI Representation Statement or an OCI Disclosure Statement (subsection I.A. or I.B. above), as appropriate, pertaining to its participation in the performance of the Statement of Work. Each such signed Statement is attached.

SIGNATURE:_____ DATE:_____

PRINTED NAME:_____ TITLE:_____

ORGANIZATION:_____

FL-105
REPRESENTATIONS REGARDING PROPRIETARY DATA
(previously FL-35)

A. RIGHTS IN PROPOSAL DATA

NOTE: This representation must be completed for any proposed subcontract in which the decision to make the award includes consideration of a technical proposal.

It is Fermilab policy for a subcontract award based on a proposal that, in consideration of the award, the Government shall obtain unlimited rights in the technical data contained in the proposal unless the Offeror marks those portions of the technical information which he asserts as "proprietary data" or specifies those portions of such technical data which are not directly related to or will not be utilized in the work to be funded under the subcontract. Accordingly, please indicate:

- ☐ No restriction on Government rights in the proposal technical data; or
- ☐ The following identified technical data is proprietary or is not directly related to or will not be utilized in the work to be funded under the subcontract:

DATA

B. IDENTIFICATION OF TECHNICAL DATA WHICH IS PROPRIETARY

NOTE: This representation is to be used in every solicitation which may result in the submission of proposals containing technical data or which will require the successful subcontractor to deliver technical data.

The Rights in Technical Data Article proposed to be used for this subcontract may not permit the utilization of proprietary data in the subcontract work or, if the use of proprietary data is permitted, may not be adequate to meet programmatic requirements. Use of data which is proprietary may prevent you from meeting the data requirements of the subcontract (including delivery of data). Your attention is particularly drawn to the use of Licensed Computer Software.

Please indicate that you have reviewed the requirements in the technical scope of work and to the best of your knowledge:

- ☐ No proprietary data will be utilized in the subcontract work.
- ☐ Proprietary data as follows will be utilized in the subcontract work.

- ☐ No Licensed Computer Software will be utilized in the subcontract work.
- ☐ Licensed Computer Software as follows will be utilized in the subcontract work:

FL-106

PATENT TERMS AND NOTICE OF RIGHT TO REQUEST PATENT WAIVER

1. Under the provisions of P.L. 96-517, the patent terms required for subcontracts with Offerors in certain categories are set forth in the Department of Energy Acquisition Regulation (DEAR). In order to determine the Patent provisions applicable to this subcontract, please check the applicable box.

Offeror is:

- ☐ (a) A small business firm as defined at Section 2 of P.L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this definition, the size standard for small business concerns involved in Government procurement, contained in 13 C.F.R. 121.3-8, and in subcontracting, contained in 13 C.F.R. 121.3-12, will be used.
- ☐ (b) A University or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)); or
- ☐ (c) A nonprofit scientific or educational organization qualified under a State nonprofit organization statute. Please identify the statute _____.
- ☐ (d) None of the above.

2. *[applicable only to Offerors who have checked 1. (d) above]*

Offerors who have checked (d) above have the right to request, in advance of or within 30 days after execution of the subcontract, in accordance with applicable statutes and the DOE Patent Waiver Regulation, (10 C.F.R. Part 784), a waiver of all or any part of the rights of the United States in Subject Inventions. Please indicate:

- ☐ I intend to request an advance waiver in accordance with 10 C.F.R. Part 784.
- ☐ I do not intend to request an advance waiver.

This is submitted with the intention that the Department of Energy rely on my representation that the organization named below is a member of the category indicated.

(Name of Organization)

(Signature of Authorized Representative)

(Typed or Printed Name)

(Title of Authorized Representative)

(Date)

FL-107
RIGHTS TO PROPOSAL DATA (TECHNICAL)

Except for the technical data contained in pages _____

of the subcontractor's proposal, which are asserted by the subcontractor as being proprietary data, it is agreed that, as a condition of the award of this subcontract and notwithstanding the provisions of any notice appearing on the proposal, the Government shall have the right to use, duplicate, disclose and have others do so for any purpose whatsoever, the technical data contained in the proposal upon which this subcontract is based.

Section L – Instructions, Conditions and Notices to Offerors

The following requirements must be adhered to for the Offeror's submission of Proposals to Fermi Research Alliance (FRA) in support of this specific requirement:

L1. INSTRUCTIONS FOR TECHNICAL AND PRICE/CONTRACTUAL PROPOSALS:

Offerors shall submit two (2) separate pdf proposal volumes:

- 1) The Technical Proposal volume shall contain all the pertinent technical information exclusive of the prices and other information required in the Price/Contractual proposal volume. The technical volume shall include all the information required by the technical proposal preparation instructions below.

Technical Proposal Preparation Instructions:

The Offeror shall provide resumes of the individuals proposed for the Offeror's project team. the Offeror proposes to perform the duties and responsibilities of the required Senior Construction Manager position at the construction site in Lead, South Dakota which is described in the Statement of Work.

In addition to providing resumes, the Offeror shall provide additional explanation and documentation supporting the extent to which the candidate meets the following minimum and preferred qualifications:

Mandatory Technical Requirements:

- Demonstrated success designing at least 5 completed heavy civil and industrial construction projects, each with construction values of \$100M or greater, over the past 10 years.
- Demonstrated experience with designs of structural and mass concrete placements within the last 5 years.
- Demonstrated technical experience performing independent design reviews, commonly known as "Peer Reviews" in the industry.

Technical Evaluation Criteria:

- **Proposed Team:** Proposed team organization and demonstrated experience and technical competence applicable to the size and scope of this project in the following disciplines:
 - Civil
 - Structural
 - Mechanical
 - Electrical
 - Plumbing
 - Geotechnical
 - Other, including Fire Protection

- **Corporate Project Expertise:** Demonstrated success designing at least 5 completed heavy civil and industrial construction projects, each with construction values of \$100M or greater, over the past 10 years. Provide Owner references (i.e owner, contact person, telephone number, etc.).
 - Expertise in design of geosynthetic water barrier systems
 - Expertise in design of complex concrete structures and mass concrete placements
 - Expertise in design of deep foundation systems
 - Expertise in design of deep surface excavations
- **Corporate Resources:** Proposed corporate resources and organizational approach demonstrate the technical subject matter expertise to meet the requirements of the SOW for each of the engineering disciplines. Ability to successfully execute the scope of work as described in the RFP. Demonstrated ability to assign adequate personnel from the proposed organization.
- **ESH Plan & Safety Record:** Corporate ESH Plan
- **QA/QC Plan:** Corporate QA/QC Plan
- **Small Business Subcontracting Plan:** Plan for Small Business Sub-Subcontracting opportunities

2) The Price/Contractual proposal volume shall contain:

- A. The cost/price information specified in the Cost Proposal Preparation Instructions below.
- B. The documents specified in the Contractual Proposal Preparation Instructions below.

Cost Proposal Preparation Instructions:

A Firm-Fixed-Price type of contract with a period of performance from February 1, 2020 through October 31, 2021 is contemplated.

The Offeror shall propose a Firm-Fixed-Price for each Subcontract Line Item Number (SLIN). The Firm-Fixed-Price for each SLIN shall be inclusive of all labor, material, equipment, parts, transportation, travel, supervision, and all other necessary things to perform the statement of work for that SLIN.

Pricing Format

The Offeror shall present the Offeror's cost proposal in the format specified below.

Firm-Fixed-Price:

SLIN	Description	Firm-Fixed-Price (USD)
1	Preliminary Design Independent Design Review	\$ _____
2	Final Design Independent Design Review	\$ _____

Contractual Proposal Preparation Instructions:

The contractual proposal shall include the completed:

- Representations and Certifications forms provided in Section K of this RFP including:
 - Representations, Certifications and Acknowledgments (FL-6) form.
 - Organizational Conflicts of Interest (OCI) Certification (FL-11) form with any additional correspondence required. OCI Instructions are provided in Item L3 below.
 - FL-105 Representations Regarding Proprietary Data
 - FL-106 Patent Terms and notice of Right to Request Patent waiver
 - FL-107 Rights to Proposal Data (Technical).
- Small Business Subcontracting Plan in accordance with FAR Clause 52.215-9, Small Business Subcontracting Plan (Aug 2018). Small Businesses are exempt from this requirement.
- List of authorized negotiator(s) and contact information.
- Any written exceptions or proposed changes to the terms and conditions or requirements of the model Subcontract contained in this RFP.

L2. PROPOSAL EVALUATION:

Refer to RFP Section M – Evaluation Factors for Award. After FRA's initial review and evaluation of the competitive proposals, pursuant to the Technical Evaluation Factors and Total Subcontract Price Evaluation specified in Section M of the RFP, **FRA may select offerors for oral presentations which may include onsite presentations at Fermilab in Batavia, IL.**

L3. ORGANIZATIONAL CONFLICTS OF INTEREST DISCLOSURE FOR ADVISORY AND ASSISTANCE SERVICES INSTRUCTIONS:

- (a) Organizational conflict of interest means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to Fermilab or 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) Offerors shall provide the statement described in paragraph (c) below. The FL-11, "Organizational Conflict of Interest (OCI) Certification," contained in Section K of this RFP may be used to fulfill this requirement.
- (c) A statement must contain the following:
 - (1) A statement of any past (within the past twelve 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 a responsible officer or employee of the offeror who is knowledgeable about the services rendered to each client, if, in the 12 months preceding the date of the statement, services were rendered to Fermilab or 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 subcontract 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 meaningful evaluation of the potential effect of the interest on the performance of the statement of work.

- (2) 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 subcontract 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) of this provision.
- (d) Failure of the offeror to provide the required statement may result in the offeror 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 provisions provided for by law or regulation.

L4. PROPOSAL RESPONSE AND DUE DATE AND TIME

- A) Proposals shall be submitted via e-mail to Chris Allen at callen@fnal.gov no later than 5:00pm Central Standard Time on January 10, 2020.
- B) Representations and Certifications must be:
- Submitted on the forms furnished by FRA or on copies of those forms which have been manually signed and scanned.
 - The person signing the Representations and Certifications must initial each erasure or change appearing on a completed form.
 - The Offeror's Representations and Certifications shall be signed by an authorized representative of the company.
- C) Submit an e-mail with one (1) scanned pdf copy of the Technical volume and one (1) scanned pdf copy of the Cost/Contractual volume.

L5. INQUIRIES AND QUESTIONS:

Direct all price/contractual and technical questions that you may have concerning this RFP in writing via e-mail to callen@fnal.gov. All inquiries and questions regarding this Solicitation must be received no later than December 20, 2019, in order to allow FRA sufficient time to respond prior to the proposal due date. Offerors shall reference the solicitation number in the subject line of the e-mail correspondence. The person designated below shall be the **only** contact for all inquiries regarding any aspect of this Request for Proposal (RFP) and its requirements.

Fermi Research Alliance, LLC
Attention: Chris Allen
LBNF Procurement Manager I
Phone: (630) 840-4829
Email: callen@fnal.gov

Responses to written questions, which involve an interpretation or change to this RFP, will be issued in writing by an RFP amendment and mailed to all parties recorded by FRA as having received a copy of the RFP. All such amendments issued by FRA prior to the time that proposals are received shall be considered part of the RFP.

Companies receiving this RFP other than directly from FRA Procurement are responsible for notifying the FRA contact for RFP Inquiries that they are in receipt of an RFP package, and for providing a company name, contact name and e-mail address in the event an amendment is issued.

Only additional information provided by formal written amendment shall be binding. Oral and other interpretations or clarifications will be without legal effect.

L6. ADDITIONAL TERMS & CONDITIONS:

The articles, terms, conditions, and provisions provided herein generally conform with those normally issued by this office and are compliant with FRA's Prime Contract with the U.S. Department of Energy (DOE) or with public law. Significant exceptions, requested changes or requests for waivers by an Offeror may delay any resultant award. Further, there is no certainty that any requested changes will be incorporated in the awarded subcontract.

L7. AMENDMENT:

FRA reserves the right to issue amendments to the RFP at any time prior to the due date, for any reason.

L8. RELEASE OF CLAIMS, LIABILITY AND PREPARATION EXPENSES:

Under no circumstances shall FRA be responsible for any proposal preparation expenses, submission costs, or any other expenses, costs or damages, of whatever nature incurred as a result of Offeror's participation in this RFP process. Offeror understands and agrees that the Offeror submits its proposal at its own risk and expense and releases FRA from any claim for damages or other liability arising out of the RFP and awards process.

L9. LATE SUBMISSION:

Proposals received by FRA after the Submittal Date and Time indicated **MAY NOT** be considered. FRA assumes no responsibility for delays caused by weather or electronic communication.

L10. EXCEPTIONS:

FRA warns Offerors that taking exceptions to any term or condition of this RFP (including submitting any alternate proposals that requires relaxation of a requirement) may make an offer unacceptable, and the Offeror ineligible for award. If exceptions are taken, Offerors shall identify the Section or Attachment of the RFP and paragraph or clause designation which the Offeror is taking exception to. The reason for any exception(s) shall be clearly stated in the Offeror's proposal. Substantive exceptions may cause your offer to not be accepted.

L11. AUTHORIZED NEGOTIATORS:

The Offeror shall provide the name of a person or persons authorized to negotiate on its behalf with FRA in connection with this request for proposal (list names, titles, e-mail addresses and telephone numbers of the authorized negotiators).

L13. ERRORS IN PROPOSALS:

FRA shall not be liable for any errors in the Offeror's proposal. Except during negotiations initiated by FRA, no modifications to proposal shall be accepted from the Offeror after the Submittal Date. Offeror is responsible for careful review of its entire proposal to ensure that all information, including pricing, is correct and complete. Offerors are liable for all errors or omissions contained in their proposals.

L14. RESPONSIBLE OFFERORS:

FRA reserves the right to award a Subcontract only to a responsible Offeror. A responsible Offeror is defined as a company that demonstrates the financial ability, resources, skills, capability, willingness, and business integrity necessary to perform the Subcontract. FRA determination of whether an Offeror is responsible is at FRA's sole discretion.

L15. ISSUANCE OF RFP AND AWARD PROCESS:

After the opening of the proposals, an award may be made on the basis of the Proposals initially submitted, without discussion, clarification, or modification or on the basis of negotiation with any or all of the Offerors. Therefore, the Offerors should make sure their Proposals contain the best offer to FRA.

L16. SUBCONTRACT AWARD:

Issuance of the RFP does not compel FRA to make an award. FRA reserves the right to accept or reject all proposals if that is determined to be in its best interest. A decision may be made without discussion; and hence, your proposal should be submitted initially on the most favorable terms. Proposed award is based on a continuing program requirement and the issuance of obligation authority from the Procurement Department of FRA. Any subsequent award issued by FRA shall be constituted in writing from authorized representatives of the Procurement Department.

No other representatives of FRA are authorized to issue contracts or agreements or bind FRA to any form of agreement or understanding. The authorized Procurement Department official is the only individual who can legally commit FRA to the expenditure of funds in connection with this proposed procurement.

L17. PROJECTED AWARD DATE:

For information purposes, FRA expects to make an award on or about January 31, 2020.

L18. SUBCONTRACTING:

Unless otherwise specified, the successful Offeror shall be responsible for performance of any lower-tier subcontractor that may perform work under this subcontract. If the proposed Senior Construction Manager is an employee of a lower-tier subcontractor, the Offeror shall so state in the Offeror's proposal. Performance by a lower-tier subcontractor employee is subject to FRA consent and will be considered in FRA's evaluation. The FRA Subcontractor must ensure that any lower-tier subcontractor abides by all terms and conditions and requirement of the FRA Subcontract.

L19. NOTIFICATION OF AWARD:

If FRA awards a Subcontract as a result of this RFP process, FRA will deliver to the selected Offeror a notice of award.

The resulting Subcontract shall consist of:

- (1) The terms, conditions, specifications and requirements of this RFP and its attachments.
- (2) Any amendments issued by FRA pursuant to this RFP,
- (3) All representations (including but not limited to, representations as to price, specifications, performance, and financial terms) made by the Offeror in its proposal.
- (4) Any mutually agreed upon written modifications to the terms, conditions, specifications, and requirements to this RFP or to the proposal.

Section M – Evaluation Factors for Award

M1. MANDATORY TECHNICAL REQUIREMENTS:

- Demonstrated success designing at least 5 completed heavy civil and industrial construction projects, each with construction values of \$100M or greater, over the past 10 years.
- Demonstrated experience with designs of structural and mass concrete placements within the last 5 years.
- Demonstrated technical experience performing independent design reviews, commonly known as "Peer Reviews" in the industry.

M2. TECHNICAL EVALUATION CRITERIA:

- **Proposed Team:** Proposed team organization and demonstrated experience and technical competence applicable to the size and scope of this project in the following disciplines:
 - Civil
 - Structural
 - Mechanical
 - Electrical
 - Plumbing
 - Geotechnical
 - Other, including Fire Protection
- **Corporate Project Expertise:** Demonstrated success designing at least 5 completed heavy civil and industrial construction projects, each with construction values of \$100M or greater, over the past 10 years. Provide Owner references (i.e owner, contact person, telephone number, etc.).
 - Expertise in design of geosynthetic water barrier systems
 - Expertise in design of complex concrete structures and mass concrete placements
 - Expertise in design of deep foundation systems
 - Expertise in design of deep surface excavations
- **Corporate Resources:** Proposed corporate resources and organizational approach demonstrate the technical subject matter expertise to meet the requirements of the SOW for each of the engineering disciplines. Ability to successfully execute the scope of work as described in the RFP. Demonstrated ability to assign adequate personnel from the proposed organization.
- **ESH Plan & Safety Record:** Corporate ESH Plan
- **QA/QC Plan:** Corporate QA/QC Plan
- **Small Business Subcontracting Plan:** Plan for Small Business Sub-Subcontracting opportunities

M3. WEIGHTING OF TECHNICAL AND COST EVALUATION FACTORS:

FRA will make a best value source selection considering both the technical strengths and weakness of each proposal, based on the technical factors in Item M2, and the total evaluated price of each proposal. The overall technical rating of the proposal will be given relatively more weight than the total evaluated price in FRA's best value analysis.