

Argonne National Laboratory Prime Contract**Part II. Section I. Contract Clauses**

Last revised: September 29, 1999

Clause I.109 - DEAR 970.5204-76 Make-Or-Buy Plan (Jun 1997)

(a) Definitions.

Buy item means a work activity, supply, or service to be produced or performed by an outside source, including a subcontractor or an affiliate, subsidiary, or division of the Contractor.

Make item means a work activity, supply, or service to be produced or performed by the Contractor using its personnel and other resources at the Department of Energy facility or site.

Make-or-Buy plan means a Contractor's written program for the contract that identifies work efforts or requirements that either are "make items" or "buy items."

(b) Make-or-Buy Plan. The Contractor shall develop and implement a Make-or-Buy Plan that establishes a preference for providing supplies and services on a least-cost basis, subject to any specific make or buy criteria identified in the contract or otherwise provided by the Contracting Officer. In developing and implementing its Make-or-Buy Plan, the Contractor agrees to assess subcontracting opportunities and implement subcontracting decisions in accordance with the following:

- (1) The Contractor shall conduct internal productivity improvement and cost-reduction programs so that in-house performance options can be made more efficient and cost-effective.
- (2) The Contractor shall consider subcontracting opportunities with the maximum practicable regard for open communications with potentially affected employees and their representatives. Similarly, a Contractor shall communicate its plans, activities, cost-benefit analyses, and decisions to those stakeholders, including representatives of the community and local businesses, likely to be affected by such decisions.

(c) Submission and approval. For new contract awards, the Contractor shall submit an initial make-or-buy plan, for approval, within 180 days after the contract award.

If the existing contract is to be extended, the Contractor shall submit a Make-or-Buy Plan for review and approval at least 90 days prior to the commencement of the negotiations for the extension. The following documentation shall be prepared and submitted:

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- (1) A description of each work item, and if appropriate, the identification of the associated Work Authorization or Work Breakdown Structure element;
 - (2) The categorization of each work item as "must make," "must buy," or "can make or buy," with the reasons for such categorization in consideration of the program specific make or buy criteria (including least cost considerations). For non-core capabilities categorized as "must make", a cost/benefit analysis must be performed for each item if:
 - (i) the Contractor is not the least-cost performer, and
 - (ii) a program specific make-or-buy criterion does not otherwise justify a "must make" categorization;
 - (3) A decision to either "make" or "buy" in consideration of the program specific make or buy criteria (including least cost considerations) for work effort categorized as "can make or buy";
 - (4) Identification of potential suppliers and subcontractors, if known, and their location and size status;
 - (5) A recommendation to defer a make or buy decision where categorization of an identifiable work effort is impracticable at the time of initial development of the plan and a schedule for future re-evaluation;
 - (6) A description of the impact of a change in current practice of making or buying on the existing work force; and
 - (7) Any additional information appropriate to support and explain the plan.
- (d) Conduct of operations. Once a make-or-buy plan is approved, the Contractor shall perform in accordance with the plan.
- (e) Changes to the make-or-buy plan. The make-or-buy plan established in accordance with paragraph (b) of this clause shall remain in effect for the term of the contract, unless:
- (1) A lesser period is provided either for the total plan or for individual items or work effort;
 - (2) The circumstances supporting the make-or-buy decisions change, or

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- (3) New work is identified.

At least annually, the Contractor shall review its approved make-or-buy plan to ensure that it reflects current conditions. Changes to the approved make-or-buy plan shall be submitted in advance of the effective date of the proposed change in sufficient time to permit evaluation and review. Changes shall be submitted in accordance with the instructions provided by the Contracting Officer. Modification of the make-or-buy plan to incorporate proposed changes or additions shall be effective upon the Contractor's receipt of the Contracting Officer's written approval.