

# **FEDERAL ACQUISITION CIRCULAR**

December 19, 2016

Number 2005-92  
Effective December 19, 2016  
Loose-leaf pages

Federal Acquisition Circular (FAC) 2005-92 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-92 is effective November 18, 2016 except for Items I and II, which are effective December 19, 2016.



**FAC 2005-92 FILING INSTRUCTIONS**

**NOTE:** The FAR is segmented by subparts. The FAR page numbers reflect FAR Subparts. For example, "1.1-5" is page 5 of subpart 1.1.

Remove Pages

1.1-5 thru 1.1-8

4.12-1 and 4.12-2

5.5-1 and 5.5-1

TOC

pp. 14-1 and 14-2

14.2-1 thru 14.2-8

14.3-1 and 14.3-2

14.4-5 thru 14.4-8

19.3-1 and 19.3-2

22.10-1 and 22.10-2

TOC

pp. 23-1 and 23-2

23.1-1 and 23.1-2

23.8-8 and 23.8-2

25.4-1 and 25.4-2

28.1-1 thru 28.1-6

43.2-1 and 43.3-2

47.3-11 and 47.3-12

TOC

pp. 49-1 and 49-2

49.1-1 thru 49.1-10

49.6-1 thru 49.6-12

TOC

pp.52-5 and 52-6

52.2-11 thru 52.2-12.10

52.2-29 thru 52.2-52

52.2-137 thru 52.2-150.2

Insert Pages

1.1-5 thru 1.1-8

4.12-1 and 4.12-2

5.5-1 and 5.5-1

TOC

pp. 14-1 and 14-2

14.2-1 thru 14.2-8

14.3-1 and 14.3-2

14.4-5 thru 14.4-8

19.3-1 and 19.3-2

22.10-1 and 22.10-2

TOC

pp. 23-1 and 23-2

23.1-1 and 23.1-2

23.8-8 and 23.8-2

25.4-1 and 25.4-2

28.1-1 thru 28.1-6

43.2-1 and 43.3-2

47.3-11 and 47.3-12

TOC

pp. 49-1 and 49-2

49.1-1 thru 49.1-10

49.6-1 thru 49.6-12

TOC

pp.52-5 and 52-6

52.2-11 thru 52.2-12.10

52.2-29 thru 52.2-52

52.2-137 thru 52.2-150.4

Remove Pages

53.2-1 and 53.2-2  
53.2-5 and 53.2-6

Insert Pages

53.2-1 and 53.2-2  
53.2-5 and 53.2-6

Remove Pages

Matrix  
52.3-7 and 52.3-8  
52.3-17 thru 52.3-38

Insert Pages

Matrix  
52.3-7 and 52.3-8  
52.3-17 thru 52.3-38

# FAC 2005–92 DECEMBER 19, 2016

FAR segment	OMB Control Number	FAR segment	OMB Control Number
<a href="#">52.215-1(c)(2)(iv)</a>	9000-0048	<a href="#">52.222-38</a>	1250-0004 and
<a href="#">52.215-1(d)</a>	9000-0044		1293-0005
<a href="#">52.215-2</a>	9000-0034	<a href="#">52.222-40</a>	1245-0004
<a href="#">52.215-6</a>	9000-0047	<a href="#">52.222-41</a>	1235-0018 and
<a href="#">52.215-9</a>	9000-0078		1235-0007
<a href="#">52.215-12</a>	9000-0013	<a href="#">52.222-46</a>	9000-0066
<a href="#">52.215-13</a>	9000-0013	<a href="#">52.222-50</a>	9000-0188
<a href="#">52.215-14</a>	9000-0080	<a href="#">52.222-54</a>	1615-0092
<a href="#">52.215-19</a>	9000-0115	<a href="#">52.222-55</a>	1235-0018
<a href="#">52.215-20</a>	9000-0013	<a href="#">52.222-56</a>	9000-0188
<a href="#">52.215-21</a>	9000-0013	<a href="#">52.222-57</a>	9000-0195
<a href="#">52.215-22</a>	9000-0173	<a href="#">52.222-58</a>	9000-0195
<a href="#">52.215-23</a>	9000-0173	<a href="#">52.222-59</a>	9000-0195
<a href="#">52.216-2</a>	9000-0068	<a href="#">52.222-60</a>	9000-0195
<a href="#">52.216-3</a>	9000-0068	<a href="#">52.223-2</a>	9000-0180
<a href="#">52.216-4</a>	9000-0068	<a href="#">52.223-4</a>	9000-0134
<a href="#">52.216-5</a>	9000-0071	<a href="#">52.223-5</a>	9000-0147
<a href="#">52.216-6</a>	9000-0071	<a href="#">52.223-6(b)(5)</a>	9000-0101
<a href="#">52.216-7</a>	9000-0069	<a href="#">52.223-7</a>	9000-0107
<a href="#">52.216-10</a>	9000-0067	<a href="#">52.223-9</a>	9000-0134
<a href="#">52.216-15</a>	9000-0069	<a href="#">52.223-11</a>	9000-0191
<a href="#">52.216-16</a>	9000-0067	<a href="#">52.223-12</a>	9000-0191
<a href="#">52.216-17</a>	9000-0067	<a href="#">52.223-22</a>	9000-0194
<a href="#">52.219-9</a>	9000-0192, 9000-0006 and	<a href="#">52.225-2</a>	9000-0024
	9000-0007	<a href="#">52.225-4</a>	9000-0024
<a href="#">52.219-10</a>	9000-0006	<a href="#">52.225-6</a>	9000-0024
<a href="#">52.219-28</a>	9000-0163	<a href="#">52.225-8</a>	9000-0022
<a href="#">52.219-29</a>	3245-0374	<a href="#">52.225-9</a>	9000-0024
<a href="#">52.219-30</a>	3245-0374	<a href="#">52.225-10</a>	9000-0024
<a href="#">52.222-2</a>	9000-0065	<a href="#">52.225-11</a>	9000-0024
<a href="#">52.222-4</a>	1215-0023	<a href="#">52.225-12</a>	9000-0024
<a href="#">52.222-6</a>	1215-0023	<a href="#">52.225-18</a>	9000-0161
<a href="#">52.222-8</a>	1235-0008 and	<a href="#">52.225-21</a>	9000-0024
	1235-0018	<a href="#">52.225-23</a>	9000-0024
<a href="#">52.222-11</a>	9000-0014	<a href="#">52.225-26</a>	9000-0184
<a href="#">52.222-17</a>	1235-0007 and	<a href="#">52.227-2</a>	9000-0096
	1235-0025	<a href="#">52.227-6</a>	9000-0096
<a href="#">52.222-18</a>	9000-0155	<a href="#">52.227-9</a>	9000-0096
<a href="#">52.222-21</a>	1250-0003	<a href="#">52.227-11</a>	9000-0095
<a href="#">52.222-22</a>	1250-0003	<a href="#">52.227-13</a>	9000-0095
<a href="#">52.222-23</a>	1250-0003	<a href="#">52.227-14</a>	9000-0090
<a href="#">52.222-25</a>	1250-0003	<a href="#">52.227-15</a>	9000-0090
<a href="#">52.222-26</a>	1250-0001, 1250-0003, and	<a href="#">52.227-16</a>	9000-0090
	1250-0008	<a href="#">52.227-17</a>	9000-0090
<a href="#">52.222-27</a>	1250-0003	<a href="#">52.227-18</a>	9000-0090
<a href="#">52.222-32</a>	9000-0154	<a href="#">52.227-19</a>	9000-0090
<a href="#">52.222-35</a>	1250-0004	<a href="#">52.227-20</a>	9000-0090
<a href="#">52.222-36</a>	1250-0005	<a href="#">52.227-21</a>	9000-0090
<a href="#">52.222-37</a>	1293-0004 and	<a href="#">52.227-22</a>	9000-0090
	1293-0005	<a href="#">52.227-23</a>	9000-0090
		<a href="#">52.228-1</a>	9000-0045
		<a href="#">52.228-2</a>	9000-0045

<b>FAR segment</b>	<b>OMB Control Number</b>	<b>FAR segment</b>	<b>OMB Control Number</b>
<a href="#">52.228-12</a>	9000-0135	<a href="#">52.245-1</a>	9000-0075
<a href="#">52.228-13</a>	9000-0045	<a href="#">52.245-9</a>	9000-0075
<a href="#">52.228-14</a>	9000-0045	<a href="#">52.246-2</a>	9000-0077
<a href="#">52.228-15</a>	9000-0045	<a href="#">52.246-3</a>	9000-0077
<a href="#">52.228-16</a>	9000-0045	<a href="#">52.246-4</a>	9000-0077
<a href="#">52.229-2</a>	9000-0059	<a href="#">52.246-5</a>	9000-0077
<a href="#">52.230-6</a>	9000-0129	<a href="#">52.246-6</a>	9000-0077
<a href="#">52.232-1</a>	9000-0070	<a href="#">52.246-7</a>	9000-0077
<a href="#">52.232-2</a>	9000-0070	<a href="#">52.246-8</a>	9000-0077
<a href="#">52.232-3</a>	9000-0070	<a href="#">52.246-12</a>	9000-0077
<a href="#">52.232-4</a>	9000-0070	<a href="#">52.246-15</a>	9000-0077
<a href="#">52.232-5</a>	9000-0102	<a href="#">52.247-2</a>	9000-0053
<a href="#">52.232-6</a>	9000-0070	<a href="#">52.247-6</a>	9000-0061
<a href="#">52.232-7</a>	9000-0070	<a href="#">52.247-29</a>	9000-0061
<a href="#">52.232-8</a>	9000-0070	<a href="#">52.247-30</a>	9000-0061
<a href="#">52.232-9</a>	9000-0070	<a href="#">52.247-31</a>	9000-0061
<a href="#">52.232-10</a>	9000-0070	<a href="#">52.247-32</a>	9000-0061
<a href="#">52.232-11</a>	9000-0070	<a href="#">52.247-33</a>	9000-0061
<a href="#">52.232-12</a>	9000-0073	<a href="#">52.247-34</a>	9000-0061
<a href="#">52.232-13</a>	9000-0010	<a href="#">52.247-35</a>	9000-0061
<a href="#">52.232-14</a>	9000-0010	<a href="#">52.247-36</a>	9000-0061
<a href="#">52.232-15</a>	9000-0010	<a href="#">52.247-37</a>	9000-0061
<a href="#">52.232-16</a>	9000-0010	<a href="#">52.247-38</a>	9000-0061
<a href="#">52.232-20</a>	9000-0074	<a href="#">52.247-39</a>	9000-0061
<a href="#">52.232-22</a>	9000-0074	<a href="#">52.247-40</a>	9000-0061
<a href="#">52.232-27</a>	9000-0102	<a href="#">52.247-41</a>	9000-0061
<a href="#">52.232-29</a>	9000-0138	<a href="#">52.247-42</a>	9000-0061
<a href="#">52.232-30</a>	9000-0138	<a href="#">52.247-43</a>	9000-0061
<a href="#">52.232-31</a>	9000-0138	<a href="#">52.247-44</a>	9000-0061
<a href="#">52.232-32</a>	9000-0138	<a href="#">52.247-48</a>	9000-0061
<a href="#">52.232-33</a>	9000-0144	<a href="#">52.247-51</a>	9000-0057
<a href="#">52.232-34</a>	9000-0144	<a href="#">52.247-52</a>	9000-0061
<a href="#">52.233-1</a>	9000-0035	<a href="#">52.247-53</a>	9000-0055
<a href="#">52.236-5</a>	9000-0062	<a href="#">52.247-57</a>	9000-0061
<a href="#">52.236-13</a>	9000-0060	<a href="#">52.247-63</a>	9000-0054
<a href="#">52.236-15</a>	9000-0058	<a href="#">52.247-64</a>	9000-0061
<a href="#">52.236-19</a>	9000-0064	<a href="#">52.247-68</a>	9000-0056
<a href="#">52.237-10</a>	9000-0152	<a href="#">52.248-1</a>	9000-0027
<a href="#">52.241-1</a>	9000-0126	<a href="#">52.248-2</a>	9000-0027
<a href="#">52.241-3</a>	9000-0122	<a href="#">52.248-3</a>	9000-0027
<a href="#">52.241-7</a>	9000-0123	<a href="#">52.249-2</a>	9000-0028
<a href="#">52.241-13</a>	9000-0124	<a href="#">52.249-3</a>	9000-0028
<a href="#">52.242-13</a>	9000-0108	<a href="#">52.249-5</a>	9000-0028
<a href="#">52.243-1</a>	9000-0026	<a href="#">52.249-6</a>	9000-0028
<a href="#">52.243-2</a>	9000-0026	<a href="#">52.250-1</a>	9000-0029
<a href="#">52.243-3</a>	9000-0026	<a href="#">52.251-2</a>	9000-0032
<a href="#">52.243-4</a>	9000-0026	<a href="#">SF 24</a>	9000-0045
<a href="#">52.243-6</a>	9000-0026	<a href="#">SF 25</a>	9000-0045
<a href="#">52.243-7</a>	9000-0026	<a href="#">SF 25A</a>	9000-0045
<a href="#">52.244-2</a>	9000-0149	<a href="#">SF 28</a>	9000-0001
<a href="#">52.244-2 (i)</a>	9000-0132	<a href="#">SF 34</a>	9000-0045

FAR segment	OMB Control Number
<a href="#">SF 35</a>	9000-0045
<a href="#">SF 273</a>	9000-0045
<a href="#">SF 274</a>	9000-0045
<a href="#">SF 275</a>	9000-0045
<a href="#">SF 294</a>	9000-0006
<a href="#">SF 295</a>	9000-0007
<a href="#">SF 330</a>	9000-0157
<a href="#">SF 1403</a>	9000-0011
<a href="#">SF 1404</a>	9000-0011
<a href="#">SF 1405</a>	9000-0011
<a href="#">SF 1406</a>	9000-0011
<a href="#">SF 1407</a>	9000-0011
<a href="#">SF 1408</a>	9000-0011
<a href="#">SF 1413</a>	9000-0014
<a href="#">SF 1416</a>	9000-0045
<a href="#">SF 1418</a>	9000-0045
<a href="#">SF 1428</a>	9000-0075
<a href="#">SF 1429</a>	9000-0075
<a href="#">SF 1435</a>	9000-0012
<a href="#">SF 1436</a>	9000-0012
<a href="#">SF 1437</a>	9000-0012
<a href="#">SF 1438</a>	9000-0012
<a href="#">SF 1439</a>	9000-0012
<a href="#">SF 1440</a>	9000-0012
<a href="#">SF 1443</a>	9000-0010
<a href="#">SF 1444</a>	9000-0089
<a href="#">SF 1445</a>	9000-0089
<a href="#">SF 1446</a>	9000-0089

**Note to 1.106:** By a court order issued on October 24, 2016, FAR segments “52.222-57”, “52.222-58”, and “52.222-59” and their corresponding OMB Control Number “9000-0195” are enjoined indefinitely as of the date of the order. The enjoined segments will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the *Federal Register* advising the public of the termination of the injunction.

### 1.107 Certifications.

In accordance with [41 U.S.C. 1304](#), a new requirement for a certification by a contractor or offeror may not be included in this chapter unless—

- (a) The certification requirement is specifically imposed by statute; or
- (b) Written justification for such certification is provided to the Administrator for Federal Procurement Policy by the Federal Acquisition Regulatory Council, and the Administrator approves in writing the inclusion of such certification requirement.

### 1.108 FAR conventions.

The following conventions provide guidance for interpreting the FAR:

(a) *Words and terms.* Definitions in [Part 2](#) apply to the entire regulation unless specifically defined in another part, subpart, section, provision, or clause. Words or terms defined in a specific part, subpart, section, provision, or clause have that meaning when used in that part, subpart, section, provision, or clause. Undefined words retain their common dictionary meaning.

(b) *Delegation of authority.* Each authority is delegable unless specifically stated otherwise (see [1.102-4\(b\)](#)).

(c) *Dollar thresholds.* Unless otherwise specified, a specific dollar threshold for the purpose of applicability is the final anticipated dollar value of the action, including the dollar value of all options. If the action establishes a maximum quantity of supplies or services to be acquired or establishes a ceiling price or establishes the final price to be based on future events, the final anticipated dollar value must be the highest final priced alternative to the Government, including the dollar value of all options.

(d) *Application of FAR changes to solicitations and contracts.* Unless otherwise specified—

(1) FAR changes apply to solicitations issued on or after the effective date of the change;

(2) Contracting officers may, at their discretion, include the FAR changes in solicitations issued before the effective date, provided award of the resulting contract(s) occurs on or after the effective date; and

(3) Contracting officers may, at their discretion, include the changes in any existing contract with appropriate consideration.

(e) *Citations.* When the FAR cites a statute, Executive order, Office of Management and Budget circular, Office of Federal Procurement Policy policy letter, or relevant portion of the *Code of Federal Regulations*, the citation includes all applicable amendments, unless otherwise stated.

(f) *Imperative sentences.* When an imperative sentence directs action, the contracting officer is responsible for the action, unless another party is expressly cited.

### 1.109 Statutory acquisition-related dollar thresholds—adjustment for inflation.

(a) [41 U.S.C. 1908](#) requires that the FAR Council periodically adjust all statutory acquisition-related dollar thresholds in the FAR for inflation, except as provided in paragraph (c) of this section. This adjustment is calculated every 5 years, starting in October 2005, using the Consumer Price Index (CPI) for all-urban consumers, and supersedes the applicability of any other provision of law that provides for the adjustment of such acquisition-related dollar thresholds.

(b) The statute defines an acquisition-related dollar threshold as a dollar threshold that is specified in law as a factor in

defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of supplies or services by an executive agency, as determined by the FAR Council.

(c) The statute does not permit escalation of acquisition-related dollar thresholds established by:

(1) [40 U.S.C. chapter 31](#), subchapter IV, Wage Rate Requirements (Construction);

(2) [41 U.S.C. chapter 67](#), Service Contract Labor Standards; or

(3) The United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979 ([19 U.S.C. 2511 et seq.](#)).

(d) A matrix showing calculation of the most recent escalation adjustments of statutory acquisition-related dollar thresholds is available via the Internet at <http://www.regulations.gov> (search FAR Case 2014-022).

**1.110 Positive law codification.**

(a) Public Law 107-217 revised, codified, and enacted as title 40, United States Code, Public Buildings, Property, and Works, certain general and permanent laws of the United States.

(b) Public Law 111-350 revised, codified, and enacted as title 41, United States Code, Public Contracts, certain general and permanent laws of the United States.

(c) The following table provides cross references between the historical titles of the acts, and the current reference in title 40 or title 41.

<u>Historical Title of Act</u>	<u>Division/Chapter/Subchapter</u>	<u>Title</u>
Anti-Kickback Act	<a href="#">41 U.S.C. chapter 87</a>	Kickbacks
Brooks Architect Engineer Act	<a href="#">40 U.S.C. chapter 11</a>	Selection of Architects and Engineers
Buy American Act	<a href="#">41 U.S.C. chapter 83</a>	Buy American
Contract Disputes Act of 1978	<a href="#">41 U.S.C. chapter 71</a>	Contract Disputes

<u>Historical Title of Act</u>	<u>Division/Chapter/Subchapter</u>	<u>Title</u>
Contract Work Hours and Safety Standards Act	<a href="#">40 U.S.C. chapter 37</a>	Contract Work Hours and Safety Standards
Davis-Bacon Act	<a href="#">40 U.S.C. chapter 31, Subchapter IV</a>	Wage Rate Requirements (Construction)
Drug-Free Workplace Act	<a href="#">41 U.S.C. chapter 81</a>	Drug-Free Workplace
Federal Property and Administrative Services Act of 1949, Title III.	<a href="#">41 U.S.C. Div. C of subtitle I*</a>	Procurement
Javits-Wagner-O'Day Act	<a href="#">41 U.S.C. chapter 85</a>	Committee for Purchase from People Who Are Blind or Severely Disabled
Miller Act	<a href="#">40 U.S.C. chapter 31, subchapter III</a>	Bonds
Office of Federal Procurement Policy Act	<a href="#">41 U.S.C. Div. B of subtitle I**</a>	Office of Federal Procurement Policy
Procurement Integrity Act	<a href="#">41 U.S.C. chapter 21</a>	Restrictions on Obtaining and Disclosing Certain Information
Service Contract Act of 1965	<a href="#">41 U.S.C. chapter 67</a>	Service Contract Labor Standards
Truth in Negotiations Act	<a href="#">41 U.S.C. chapter 35</a>	Truthful Cost or Pricing Data
Walsh-Healey Public Contracts Act	<a href="#">41 U.S.C. chapter 65</a>	Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000.

\* Except sections 3302, 3501(b), 3509, 3906, 4710, and 4711.

\*\* Except sections 1704 and 2303.



## Subpart 4.12—Representations and Certifications

### 4.1200 Scope.

This subpart prescribes policies and procedures for requiring submission and maintenance of representations and certifications via the System for Award Management (SAM) to—

(a) Eliminate the administrative burden for contractors of submitting the same information to various contracting offices;

(b) Establish a common source for this information to procurement offices across the Government; and

(c) Incorporate by reference the contractor's representations and certifications in the awarded contract.

### 4.1201 Policy.

(a) Prospective contractors shall complete electronic annual representations and certifications at SAM accessed via <https://www.acquisition.gov> as a part of required registration (see FAR 4.1102).

(b)(1) Prospective contractors shall update the representations and certifications submitted to SAM as necessary, but at least annually, to ensure they are kept current, accurate, and complete. The representations and certifications are effective until one year from date of submission or update to SAM.

(2) When any of the conditions in paragraph (b) of the clause at [52.219-28](#), Post-Award Small Business Program Rerepresentation, apply, contractors that represented they were small businesses prior to award of a contract must update the representations and certifications in SAM as directed by the clause. Contractors that represented they were other than small businesses prior to award of a contract may update the representations and certifications in SAM as directed by the clause, if their size status has changed since contract award.

(c) Data in SAM is archived and is electronically retrievable. Therefore, when a prospective contractor has completed representations and certifications electronically via SAM, the contracting officer must reference the date of SAM verification in the contract file, or include a paper copy of the electronically-submitted representations and certifications in the file. Either of these actions satisfies contract file documentation requirements of [4.803\(a\)\(11\)](#). However, if an offeror identifies changes to SAM data pursuant to the FAR provisions at [52.204-8\(d\)](#) or [52.212-3\(b\)](#), the contracting officer must include a copy of the changes in the contract file.

(d) The contracting officer shall incorporate the representations and certifications by reference in the contract (see [52.204-19](#), or for acquisitions of commercial items see [52.212-4\(v\)](#)).

### 4.1202 Solicitation provision and contract clause.

(a) Except for commercial item solicitations issued under FAR part [12](#), insert in solicitations the provision at [52.204-8](#), Annual Representations and Certifications. The contracting

officer shall check the applicable provisions at [52.204-8\(c\)\(2\)](#). When the provision at [52.204-7](#), System for Award Management, is included in the solicitation, do not include the following representations and certifications:

(1) [52.203-2](#), Certificate of Independent Price Determination.

(2) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.

(3) [52.204-3](#), Taxpayer Identification.

(4) [52.204-5](#), Women-Owned Business (Other Than Small Business).

(5) [52.204-17](#), Ownership or Control of Offeror.

(6) [52.204-20](#), Predecessor of Offeror.

(7) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations—Representation.

(8) [52.209-5](#), Certification Regarding Responsibility Matters.

(9) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

(10) [52.214-14](#), Place of Performance—Sealed Bidding.

(11) [52.215-6](#), Place of Performance.

(12) [52.219-1](#), Small Business Program Representations (Basic & Alternate I).

(13) [52.219-2](#), Equal Low Bids.

(14) [Reserved]

(15) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.

(16) [52.222-22](#), Previous Contracts and Compliance Reports.

(17) [52.222-25](#), Affirmative Action Compliance.

(18) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements.

(19) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

(20) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.

(21) [52.222-57](#), Representation Regarding Compliance with Labor Laws (Executive Order 13673).

**Note to paragraph (a)(21):** By a court order issued on October 24, 2016, this paragraph (a)(21) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the *Federal Register* advising the public of the termination of the injunction.

(22) [52.223-1](#), Biobased Product Certification.

(23) [52.223-4](#), Recovered Material Certification.

(24) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA-Designated Items (Alternate I only).

(25) [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.

(26) [52.225-2](#), Buy American Certificate.

(27) [52.225-4](#), Buy American—Free Trade Agreements—Israeli Trade Act Certificate (Basic, Alternates I, II, and III).

(28) [52.225-6](#), Trade Agreements Certificate.

(29) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan—Certification.

(30) [52.225-25](#), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications.

(31) [52.226-2](#), Historically Black College or University and Minority Institution Representation.

(32) [52.227-6](#), Royalty Information (Basic & Alternate I).

(33) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

(b) The contracting officer shall insert the clause at [52.204-19](#), Incorporation by Reference of Representations and Certifications, in solicitations and contracts.

## Subpart 5.5—Paid Advertisements

### 5.501 Definitions.

As used in this subpart—

“Advertisement” means any single message prepared for placement in communication media, regardless of the number of placements.

“Publication” means—

(1) The placement of an advertisement in a newspaper, magazine, trade or professional journal, or any other printed medium; or

(2) The broadcasting of an advertisement over radio or television.

### 5.502 Authority.

(a) *Newspapers.* Authority to approve the publication of paid advertisements in newspapers is vested in the head of each agency ([44 U.S.C. 3702](#)). This approval authority may be delegated ([5 U.S.C. 302\(b\)](#)). Contracting officers shall obtain written authorization in accordance with policy procedures before advertising in newspapers.

(b) *Other media.* Unless the agency head determines otherwise, advance written authorization is not required to place advertisements in media other than newspapers.

### 5.503 Procedures.

(a) *General.* (1) Orders for paid advertisements may be placed directly with the media or through an advertising agency. Contracting officers shall give small, small disadvantaged, women-owned, veteran-owned, HUBZone, and service-disabled veteran-owned small business concerns maximum opportunity to participate in these acquisitions.

(2) The contracting officer shall use the [SF 1449](#) for paper solicitations. The [SF 1449](#) shall be used to make awards or place orders unless the award/order is made by using electronic commerce or by using the Governmentwide commercial purchase card for micropurchases.

(b) *Rates.* Advertisements may be paid for at rates not over the commercial rates charged private individuals, with the usual discounts ([44 U.S.C. 3703](#)).

(c) *Proof of advertising.* Every invoice for advertising shall be accompanied by a copy of the advertisement or an affidavit of publication furnished by the publisher, radio or television

station, or advertising agency concerned ([44 U.S.C. 3703](#)). Paying offices shall retain the proof of advertising until the Government Accountability Office settles the paying office’s account.

(d) *Payment.* Upon receipt of an invoice supported by proof of advertising, the contracting officer shall attach a copy of the written authority (see [5.502\(a\)](#)) and submit the invoice for payment under agency procedures.

### 5.504 Use of advertising agencies.

(a) *General.* Basic ordering agreements may be placed with advertising agencies for assistance in producing and placing advertisements when a significant number will be placed in several publications and in national media. Services of advertising agencies include, but are not limited to, counseling as to selection of the media for placement of the advertisement, contacting the media in the interest of the Government, placing orders, selecting and ordering typography, copywriting, and preparing rough layouts.

(b) *Use of commission-paying media.* The services of advertising agencies in placing advertising with media often can be obtained at no cost to the Government, over and above the space cost, as many media give advertising agencies a commission or discount on the space cost that is not given to the Government.

(c) *Use of noncommission-paying media.* Some media do not grant advertising agencies a commission or discount, meaning the Government can obtain the same rate as the advertising agency. If the advertising agency agrees to place advertisements in noncommission-paying media as a no-cost service, the basic ordering agreement shall so provide. If the advertising agency will not agree to place advertisements at no cost, the agreement shall—

(1) Provide that the Government may place orders directly with the media; or

(2) Specify an amount that the Government will pay if the agency places the orders.

(d) *Art work, supplies, and incidentals.* The basic ordering agreement also may provide for the furnishing by the advertising agency of art work, supplies, and incidentals, including brochures and pamphlets, but not their printing. “Incidentals” may include telephone calls, and postage incurred by the advertising agency on behalf of the Government.

This page intentionally left blank.

**PART 14—SEALED BIDDING**

*Sec.*

14.000	Scope of part.	14.302	Bid submission.
	<b>Subpart 14.1—Use of Sealed Bidding</b>	14.303	Modification or withdrawal of bids.
14.101	Elements of sealed bidding.	14.304	Submission, modification, and withdrawal of bids.
14.102	[Reserved]		
14.103	Policy.		<b>Subpart 14.4—Opening of Bids and Award of Contract</b>
14.103-1	General.	14.400	Scope of subpart.
14.103-2	Limitations.	14.401	Receipt and safeguarding of bids.
14.104	Types of contracts.	14.402	Opening of bids.
14.105	Solicitations for informational or planning purposes.	14.402-1	Unclassified bids.
	<b>Subpart 14.2—Solicitation of Bids</b>	14.402-2	Classified bids.
14.201	Preparation of invitations for bids.	14.402-3	Postponement of openings.
14.201-1	Uniform contract format.	14.403	Recording of bids.
14.201-2	Part I—The Schedule.	14.404	Rejection of bids.
14.201-3	Part II—Contract clauses.	14.404-1	Cancellation of invitations after opening.
14.201-4	Part III—Documents, exhibits, and other attachments.	14.404-2	Rejection of individual bids.
14.201-5	Part IV—Representations and instructions.	14.404-3	Notice to bidders of rejection of all bids.
14.201-6	Solicitation provisions.	14.404-4	Restrictions on disclosure of descriptive literature.
14.201-7	Contract clauses.	14.404-5	All or none qualifications.
14.201-8	Price related factors.	14.405	Minor informalities or irregularities in bids.
14.201-9	Simplified contract format.	14.406	Receipt of an unreadable electronic bid.
14.202	General rules for solicitation of bids.	14.407	Mistakes in bids.
14.202-1	Bidding time.	14.407-1	General.
14.202-2	[Reserved]	14.407-2	Apparent clerical mistakes.
14.202-3	Bid envelopes.	14.407-3	Other mistakes disclosed before award.
14.202-4	Bid samples.	14.407-4	Mistakes after award.
14.202-5	Descriptive literature.	14.408	Award.
14.202-6	Final review of invitations for bids.	14.408-1	General.
14.202-7	Facsimile bids.	14.408-2	Responsible bidder—reasonableness of price.
14.202-8	Electronic bids.	14.408-3	Prompt payment discounts.
14.203	Methods of soliciting bids.	14.408-4	Economic price adjustment.
14.203-1	Transmittal to prospective bidders.	14.408-5	[Reserved]
14.203-2	Dissemination of information concerning invitations for bids.	14.408-6	Equal low bids.
14.203-3	Master solicitation.	14.408-7	Documentation of award.
14.204	Records of invitations for bids and records of bids.	14.408-8	Protests against award.
14.205	Presolicitation notices.	14.409	Information to bidders.
14.206	[Reserved]	14.409-1	Award of unclassified contracts.
14.207	Pre-bid conference.	14.409-2	Award of classified contracts.
14.208	Amendment of invitation for bids.		<b>Subpart 14.5—Two-Step Sealed Bidding</b>
14.209	Cancellation of invitations before opening.	14.501	General.
14.210	Qualified products.	14.502	Conditions for use.
14.211	Release of acquisition information.	14.503	Procedures.
14.212	Economic purchase quantities (supplies).	14.503-1	Step one.
	<b>Subpart 14.3—Submission of Bids</b>	14.503-2	Step two.
14.301	Responsiveness of bids.		



**Subpart 14.2—Solicitation of Bids**

**14.201 Preparation of invitations for bids.**

**14.201-1 Uniform contract format.**

(a) Contracting officers shall prepare invitations for bids and contracts using the uniform contract format outlined in [Table 14-1](#) to the maximum practicable extent. The use of the format facilitates preparation of the solicitation and contract as well as reference to, and use of, those documents by bidders and contractors. It need not be used for acquisition of the following:

- (1) Construction (see [Part 36](#)).
- (2) Shipbuilding (including design, construction, and conversion), ship overhaul, and ship repair.
- (3) Subsistence items.
- (4) Supplies or services requiring special contract forms prescribed elsewhere in this regulation that are inconsistent with the uniform contract format.
- (5) Firm-fixed-price or fixed-price with economic price adjustment acquisitions that use the simplified contract format (see [14.201-9](#)).

(b) Information suitable for inclusion in invitations for bids under the uniform contract format shall also be included in invitations for bids not subject to that format if applicable.

(c) Solicitations to which the uniform contract format applies shall include Parts I, II, III, and IV. If any section of the uniform contract format does not apply, the contracting officer should so mark that section in the solicitation. Upon award, the contracting officer shall not physically include Part IV in the resulting contract, but shall retain it in the contract file. (See [14.201\(c\)](#).) Award by acceptance of a bid on the award portion of [Standard Form 33](#), Solicitation, Offer and Award ([SF 33](#)), [Standard Form 26](#), Award/Contract ([SF 26](#)), or [Standard Form 1447](#), Solicitation/Contract ([SF 1447](#)), incorporates Section K, Representations, certifications, and other statements of bidders, in the resultant contract even though not physically attached. The representations and certifications shall be incorporated by reference in the contract by using [52.204-19](#) (see [4.1202\(b\)](#)) or for acquisitions of commercial items see [52.212-4\(v\)](#).

**TABLE 14-1—UNIFORM CONTRACT FORMAT**

SECTION	TITLE
<u>Part I—The Schedule</u>	
A	Solicitation/contract form
B	Supplies or services and prices
C	Description/specifications
D	Packaging and marking
E	Inspection and acceptance
F	Deliveries or performance
G	Contract administration data
H	Special contract requirements
<u>Part II—Contract Clauses</u>	
I	Contract clauses
<u>Part III—List of Documents, Exhibits, and Other Attachments</u>	
J	List of documents, exhibits, and other attachments
<u>Part IV—Representations and Instructions</u>	
K	Representations, certifications, and other statements of bidders
L	Instructions, conditions, and notices to bidders
M	Evaluation factors for award

**14.201-2 Part I—The Schedule.**

The contracting officer shall prepare the Schedule as follows:

(a) *Section A, Solicitation/contract form.* (1) Prepare the invitation for bids on [SF 33](#), unless otherwise permitted by this regulation. The [SF 33](#) is the first page of the solicitation and includes Section A of the uniform contract format. When the [SF 1447](#) is used as the solicitation document, the information in subdivisions (a)(2)(i) and (a)(2)(iv) of this subsection shall be inserted in block 9 of the [SF 1447](#).

(2) When the [SF 33](#) or [SF 1447](#) is not used, include the following on the first page of the invitation for bids:

- (i) Name, address, and location of issuing activity, including room and building where bids must be submitted.
- (ii) Invitation for bids number.
- (iii) Date of issuance.
- (iv) Time specified for receipt of bids.
- (v) Number of pages.
- (vi) Requisition or other purchase authority.
- (vii) Requirement for bidder to provide its name and complete address, including street, city, county, state, and ZIP code.

(viii) A statement that bidders should include in the bid the address to which payment should be mailed, if that address is different from that of the bidder.

(b) *Section B, Supplies or services and prices.* Include a brief description of the supplies or services; e.g., item number, national stock number/part number if applicable, title or name

identifying the supplies or services, and quantities (see [Part 11](#)). The [SF 33](#) and the [SF 1447](#) may be supplemented as necessary by the [Optional Form 336 \(OF 336\)](#), Continuation Sheet (53.302-336).

(c) *Section C, Description/specifications.* Include any description or specifications needed in addition to Section B to permit full and open competition (see [Part 11](#)).

(d) *Section D, Packaging and marking.* Provide packaging, packing, preservation, and marking requirements, if any.

(e) *Section E, Inspection and acceptance.* Include inspection, acceptance, quality assurance, and reliability requirements (see [Part 46](#), Quality Assurance).

(f) *Section F, Deliveries or performance.* Specify the requirements for time, place, and method of delivery or performance (see [Subpart 11.4](#), Delivery or Performance Schedules).

(g) *Section G, Contract administration data.* Include any required accounting and appropriation data and any required contract administration information or instructions other than those on the solicitation form.

(h) *Section H, Special contract requirements.* Include a clear statement of any special contract requirements that are not included in Section I, Contract clauses, or in other sections of the uniform contract format.

#### 14.201-3 Part II—Contract clauses.

*Section I, Contract clauses.* The contracting officer shall include in this section the clauses required by law or by this regulation and any additional clauses expected to apply to any resulting contract, if these clauses are not required to be included in any other section of the uniform contract format.

#### 14.201-4 Part III—Documents, exhibits, and other attachments.

*Section J, List of documents, exhibits, and other attachments.* The contracting officer shall list the title, date, and number of pages for each attached document.

#### 14.201-5 Part IV—Representations and instructions.

The contracting officer shall prepare the representations and instructions as follows:

(a) *Section K, Representations, certifications, and other statements of bidders.* Include in this section those solicitation provisions that require representations, certifications, or the submission of other information by bidders.

(b) *Section L, Instructions, conditions, and notices to bidders.* Insert in this section solicitation provisions and other information and instructions not required elsewhere to guide bidders. Invitations shall include the time and place for bid openings, and shall advise bidders that bids will be evaluated without discussions (see [52.214-10](#) and, for construction contracts, [52.214-19](#)).

(c) *Section M, Evaluation factors for award.* Identify the price related factors other than the bid price that will be considered in evaluating bids and awarding the contract. See [14.201-8](#).

#### 14.201-6 Solicitation provisions.

(a) The provisions prescribed in this subsection apply to preparation and submission of bids in general. See other FAR parts for provisions and clauses related to specific acquisition requirements.

(b) Insert in all invitations for bids the provisions at—

(1) [52.214-3](#), Amendments to Invitations For Bids; and

(2) [52.214-4](#), False Statements in Bids.

(c) Insert the following provisions in invitations for bids:

(1) [52.214-5](#), Submission of Bids.

(2) [52.214-6](#), Explanation to Prospective Bidders.

(3) [52.214-7](#), Late Submissions, Modifications, and Withdrawals of Bids.

(d) [Reserved]

(e) Insert in all invitations for bids, except those for construction, the provisions at [52.214-10](#), Contract Award—Sealed Bidding.

(f) Insert in invitations for bids to which the uniform contract format applies, the provision at [52.214-12](#), Preparation of Bids.

(g) [Reserved].

(h) Insert the provision at [52.214-14](#), Place of Performance—Sealed Bidding, in invitations for bids except those in which the place of performance is specified by the government.

(i) Insert the provision at [52.214-15](#), Period for Acceptance of Bids, in invitations for bids (IFB's) that are not issued on [SF 33](#) or [SF 1447](#) except IFB's—

(1) For construction work; or

(2) In which the government specifies a minimum acceptance period.

(j) Insert the provision at [52.214-16](#), Minimum Bid Acceptance Period, in invitations for bids, except for construction, if the contracting officer determines that a minimum acceptance period must be specified.

(k) [Reserved]

(l) Insert the provision at [52.214-18](#), Preparation of Bids—Construction, in invitations for bids for construction work.

(m) Insert the provision at [52.214-19](#), Contract Award—Sealed Bidding—Construction, in all invitations for bids for construction work.

(n) [Reserved]

(o)(1) Insert the provision at [52.214-20](#), Bid Samples, in invitations for bids if bid samples are required.

(2) If it appears that the conditions in [14.202-4\(e\)\(1\)](#) will apply and the contracting officer anticipates granting waivers and—



(i) If the nature of the required product does not necessitate limiting the grant of a waiver to a product produced at the same plant in which the product previously acquired or tested was produced, use the provision with its Alternate I; or

(ii) If the nature of the required product necessitates limiting the grant of a waiver to a product produced at the same plant in which the product previously acquired or tested was produced, use the provision with its Alternate II.

(3) See [14.202-4](#)(e)(2) regarding waiving the requirement for all bidders.

(p)(1) Insert the provision at [52.214-21](#), Descriptive Literature, in invitations for bids if—

(i) Descriptive literature is required to evaluate the technical acceptability of an offered product; and

(ii) The required information will not be readily available unless it is submitted by bidders.

(2) Use the basic clause with its Alternate I if the possibility exists that the contracting officer may waive the requirement for furnishing descriptive literature for a bidder offering a previously supplied product that meets specification requirements of the current solicitation.

(3) See [14.202-5](#)(d)(2) regarding waiving the requirement for all bidders.

(q) Insert the provision at [52.214-22](#), Evaluation of Bids for Multiple Awards, in invitations for bids if the contracting officer determines that multiple awards might be made if doing so is economically advantageous to the government.

(r) Insert the provision at [52.214-23](#), Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding, in solicitations for technical proposals in step one of two-step sealed bidding.

(s) Insert the provision at [52.214-24](#), Multiple Technical Proposals, in solicitations for technical proposals in step one of two-step sealed bidding if the contracting officer permits the submission of multiple technical proposals.

(t) Insert the provision at [52.214-25](#), Step Two of Two-Step Sealed Bidding, in invitations for bids issued under step two of two-step sealed bidding.

(u) [Reserved]

(v) Insert the provision at [52.214-31](#), Facsimile Bids, in solicitations if facsimile bids are authorized (see [14.202-7](#)).

(w) Insert the provision at [52.214-34](#), Submission of Offers in the English Language, in solicitations that include any of the clauses prescribed in [25.1101](#) or [25.1102](#). It may be included in other solicitations when the contracting officer decides that it is necessary.

(x) Insert the provision at [52.214-35](#), Submission of Offers in U.S. Currency, in solicitations that include any of the clauses prescribed in [25.1101](#) or [25.1102](#), unless the contracting officer includes the clause at [52.225-17](#), Evaluation of Foreign Currency Offers, as prescribed in [25.1103](#)(d). It may be included in other solicitations when the contracting officer decides that it is necessary.

#### 14.201-7 Contract clauses.

(a) When contracting by sealed bidding, the contracting officer shall insert the clause at [52.214-26](#), Audit and Records—Sealed Bidding, in solicitations and contracts as follows:

(1) *Use the basic clause if—*(i) The acquisition will not use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5); and

(ii) The contract amount is expected to exceed the threshold at [15.403-4](#)(a)(1) for submission of certified cost or pricing data.

(2)(i) If the acquisition will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, use the clause with its Alternate I in all solicitations and contracts.

(ii)(A) In the case of a bilateral contract modification that will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, the contracting officer shall specify applicability of Alternate I to that modification.

(B) In the case of a task- or delivery-order contract in which not all orders will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, the contracting officer shall specify the task or delivery orders to which Alternate I applies.

(b)(1) When contracting by sealed bidding, the contracting officer shall insert the clause at [52.214-27](#), Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding, in solicitations and contracts if the contract amount is expected to exceed the threshold for submission of certified cost or pricing data at [15.403-4](#)(a)(1).

(2) In exceptional cases, the head of the contracting activity may waive the requirement for inclusion of the clause in a contract with a foreign government or agency of that government. The authorizations for the waiver and the reasons for granting it shall be in writing.

(c)(1) When contracting by sealed bidding, the contracting officer shall insert the clause at [52.214-28](#), Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding, in solicitations and contracts if the contract amount is expected to exceed the threshold for submission of certified cost or pricing data at [15.403-4](#)(a)(1).

(2) In exceptional cases, the head of the contracting activity may waive the requirement for inclusion of the clause in a contract with a foreign government or agency of that government. The authorizations for the waiver and the reasons for granting it shall be in writing.

(d) When contracting by sealed bidding the contracting officer shall insert the clause at [52.214-29](#), Order of Precedence—Sealed Bidding, in solicitations and contracts to which the uniform contract format applies.

#### 14.201-8 Price related factors.

The factors set forth in paragraphs (a) through (e) of this subsection may be applicable in evaluation of bids for award and shall be included in the solicitation when applicable. (See [14.201-5](#)(c).)

(a) Foreseeable costs or delays to the Government resulting from such factors as differences in inspection, locations of supplies, and transportation. If bids are on an f.o.b. origin basis (see [47.303](#) and [47.305](#)), transportation costs to the designated points shall be considered in determining the lowest cost to the Government.

(b) Changes made, or requested by the bidder, in any of the provisions of the invitation for bids, if the change does not constitute a ground for rejection under [14.404](#).

(c) Advantages or disadvantages to the Government that might result from making more than one award (see [14.201-6\(q\)](#)). The contracting officer shall assume, for the purpose of making multiple awards, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under a solicitation. Individual awards shall be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(d) Federal, state, and local taxes (see [Part 29](#)).

(e) Origin of supplies, and, if foreign, the application of the Buy American statute or any other prohibition on foreign purchases (see [Part 25](#)).

#### 14.201-9 Simplified contract format.

*Policy.* For firm-fixed-price or fixed-price with economic price adjustment acquisitions of supplies and services, the contracting officer may use the simplified contract format in lieu of the uniform contract format (see [14.201-1](#)). The contracting officer has flexibility in preparation and organization of the simplified contract format. However, the following format should be used to the maximum practical extent:

(a) *Solicitation/contract form.* [Standard Form \(SF\) 1447](#), Solicitation/Contract, shall be used as the first page of the solicitation.

(b) *Contract schedule.* Include the following for each contract line item:

- (1) Contract line item number.
- (2) Description of supplies or services, or data sufficient to identify the requirement.
- (3) Quantity and unit of issue.
- (4) Unit price and amount.
- (5) Packaging and marking requirements.
- (6) Inspection and acceptance, quality assurance, and reliability requirements.
- (7) Place of delivery, performance and delivery dates, period of performance, and f.o.b. point.
- (8) Other item-peculiar information as necessary (e.g., individual fund citations).

(c) *Clauses.* Include the clauses required by this regulation. Additional clauses shall be incorporated only when considered absolutely necessary to the particular acquisition.

(d) *List of documents and attachments.* Include if necessary.

(e) *Representations and instructions—(1) Representations and certifications.* Insert those solicitation provisions that require representations, certifications, or the submission of other information by offerors.

(2) *Instructions, conditions, and notices.* Include the solicitation provisions required by [14.201-6](#). Include any other information/instructions necessary to guide offerors.

(3) *Evaluation factors for award.* Insert all evaluation factors and any significant subfactors for award.

(4) Upon award, the contracting officer need not physically include the provisions in paragraphs (e)(1), (2), and (3) of this subsection in the resulting contract, but shall retain them in the contract file. Award by acceptance of a bid on the award portion of [SF 1447](#) incorporates the representations, certifications, and other statements of bidders in the resultant contract even though not physically attached.

#### 14.202 General rules for solicitation of bids.

##### 14.202-1 Bidding time.

(a) *Policy.* A reasonable time for prospective bidders to prepare and submit bids shall be allowed in all invitations, consistent with the needs of the Government. (For construction contracts, see [36.213-3\(a\)](#).) A bidding time (i.e., the time between issuance of the solicitation and opening of bids) of at least 30 calendar days shall be provided, when synopsis is required by [Subpart 5.2](#).

(b) *Factors to be considered.* Because of unduly limited bidding time, some potential sources may be precluded from bidding and others may be forced to include amounts for contingencies that, with additional time, could be eliminated. To avoid unduly restricting competition or paying higher-than-necessary prices, consideration shall be given to such factors as the following in establishing a reasonable bidding time:

- (1) Degree of urgency;
- (2) Complexity of requirement;
- (3) Anticipated extent of subcontracting;
- (4) Whether use was made of presolicitation notices;
- (5) Geographic distribution of bidders; and
- (6) Normal transmittal time for both invitations and bids.

##### 14.202-2 Reserved.

##### 14.202-3 Bid envelopes.

(a) Postage or envelopes bearing “Postage and Fees Paid” indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders.

(b) To provide for ready identification and proper handling of bids, [Optional Form 17](#), Offer Label, may be furnished with each bid set. The form may be obtained from the General Services Administration (see [53.107](#)).

##### 14.202-4 Bid samples.

(a) *Policy.*(1) Bidders shall not be required to furnish bid samples unless there are characteristics of the product that cannot be described adequately in the specification or purchase description.

(2) Bid samples will be used only to determine the responsiveness of the bid and will not be used to determine a bidder’s ability to produce the required items.

(3) Bid samples may be examined for any required characteristic, whether or not such characteristic is adequately

described in the specification, if listed in accordance with paragraph (d)(1)(ii) of this section.

(4) Bids will be rejected as nonresponsive if the sample fails to conform to each of the characteristics listed in the invitation.

(b) *When to use.* The use of bid samples would be appropriate for products that must be suitable from the standpoint of balance, facility of use, general “feel,” color, pattern, or other characteristics that cannot be described adequately in the specification. However, when more than a minor portion of the characteristics of the product cannot be adequately described in the specification, products should be acquired by two-step sealed bidding or negotiation, as appropriate.

(c) *Justification.* The reasons why acceptable products cannot be acquired without the submission of bid samples shall be set forth in the contract file, except where the submission is required by the formal specifications (Federal, Military, or other) applicable to the acquisition.

(d) *Requirements for samples in invitations for bids.* (1) Invitations for bids shall—

(i) State the number and, if appropriate, the size of the samples to be submitted and otherwise fully describe the samples required; and

(ii) List all the characteristics for which the samples will be examined.

(2) If bid samples are required, see [14.201-6\(o\)](#).

(e) *Waiver of requirement for bid samples.* (1) The requirement for furnishing bid samples may be waived when a bidder offers a product previously or currently being contracted for or tested by the Government and found to comply with specification requirements conforming in every material respect with those in the current invitation for bids. When the requirement may be waived, see [14.201-6\(o\)\(2\)](#).

(2) Where samples required by a Federal, Military, or other formal specification are not considered necessary and a waiver of the sample requirements of the specification has been authorized, a statement shall be included in the invitation that notwithstanding the requirements of the specification, samples will not be required.

(f) *Unsolicited samples.* Bid samples furnished with a bid that are not required by the invitation generally will not be considered as qualifying the bid and will be disregarded. However, the bid sample will not be disregarded if it is clear from the bid or accompanying papers that the bidder’s intention was to qualify the bid. (See [14.404-2\(d\)](#) if the qualification does not conform to the solicitation.)

(g) *Handling bid samples.* (1) Samples that are not destroyed in testing shall be returned to bidders at their request and expense, unless otherwise specified in the invitation.

(2) Disposition instructions shall be requested from bidders and samples disposed of accordingly.

(3) Samples ordinarily will be returned collect to the address from which received if disposition instructions are not

received within 30 days. Small items may be returned by mail, postage prepaid.

(4) Samples that are to be retained for inspection purposes in connection with deliveries shall be transmitted to the inspecting activity concerned, with instructions to retain the sample until completion of the contract or until disposition instructions are furnished.

(5) Where samples are consumed or their usefulness is impaired by tests, they will be disposed of as scrap unless the bidder requests their return.

#### 14.202-5 Descriptive literature.

(a) *Policy.* Contracting officers must not require bidders to furnish descriptive literature unless it is needed before award to determine whether the products offered meet the specification and to establish exactly what the bidder proposes to furnish.

(b) *Justification.* The contracting officer must document in the contract file the reasons why product acceptability cannot be determined without the submission of descriptive literature, except when the contract specifications require submission.

(c) *Requirements of invitation for bids.* (1) The invitation must clearly state—

(i) What descriptive literature the bidders must furnish;

(ii) The purpose for requiring the literature;

(iii) The extent of its consideration in the evaluation of bids; and

(iv) The rules that will apply if a bidder fails to furnish the literature before bid opening or if the literature provided does not comply with the requirements of the invitation.

(2) If bidders must furnish descriptive literature, see [14.201-6\(p\)](#).

(d) *Waiver of requirement for descriptive literature.* (1) The contracting officer may waive the requirement for descriptive literature if—

(i) The bidder states in the bid that the product being offered is the same as a product previously or currently being furnished to the contracting activity; and

(ii) The contracting officer determines that the product offered by the bidder complies with the specification requirements of the current invitation for bids. When the contracting officer waives the requirement, see [14.201-6\(p\)\(2\)](#).

(2) When descriptive literature is not necessary and a waiver of literature requirements of a specification has been authorized, the contracting officer must include a statement in the invitation that, despite the requirements of the specifications, descriptive literature will not be required.

(3) If the solicitation provides for a waiver, a bidder may submit a bid on the basis of either the descriptive literature furnished with the bid or a previously furnished product. If the

bid is submitted on one basis, the bidder may not have it considered on the other basis after bids are opened.

(e) *Unsolicited descriptive literature.* If descriptive literature is furnished when it is not required by the invitation for bids, the procedures set forth in [14.202-4\(f\)](#) must be followed.

#### **14.202-6 Final review of invitations for bids.**

Each invitation for bids shall be thoroughly reviewed before issuance to detect and correct discrepancies or ambiguities that could limit competition or result in the receipt of nonresponsive bids. Contracting officers are responsible for the reviews.

#### **14.202-7 Facsimile bids.**

(a) Unless prohibited or otherwise restricted by agency procedures, contracting officers may authorize facsimile bids (see [14.201-6\(v\)](#)). In determining whether or not to authorize facsimile bids, the contracting officer shall consider factors such as—

- (1) Anticipated bid size and volume;
- (2) Urgency of the requirement;
- (3) Frequency of price changes;
- (4) Availability, reliability, speed, and capacity of the receiving facsimile equipment; and
- (5) Adequacy of administrative procedures and controls for receiving, identifying, recording, and safeguarding facsimile bids, and ensuring their timely delivery to the bids opening location.

(b) If facsimile bids are authorized, contracting officers may, after the date set for bid opening, request the apparently successful offeror to provide the complete, original signed bid.

#### **14.202-8 Electronic bids.**

In accordance with [Subpart 4.5](#), contracting officers may authorize use of electronic commerce for submission of bids. If electronic bids are authorized, the solicitation shall specify the electronic commerce method(s) that bidders may use.

#### **14.203 Methods of soliciting bids.**

##### **14.203-1 Transmittal to prospective bidders.**

Invitations for bids or presolicitation notices must be provided in accordance with [5.102](#). When a contracting office is located in the United States, any solicitation sent to a prospective bidder located outside the United States shall be sent by electronic data interchange or air mail if security classification permits.

##### **14.203-2 Dissemination of information concerning invitations for bids.**

Procedures concerning display of invitations for bids in a public place, information releases to newspapers and trade journals, paid advertisements, and synopsis through the Governmentwide point of entry (GPE) are set forth in [5.101](#) and [Subpart 5.2](#).

##### **14.203-3 Master solicitation.**

The master solicitation is provided to potential sources who are requested to retain it for continued and repetitive use. Individual solicitations must reference the date of the current master solicitation and identify any changes. The contracting officer must—

- (a) Make available copies of the master solicitation on request; and
- (b) Provide the cognizant contract administration activity a current copy of the master solicitation.

##### **14.204 Records of invitations for bids and records of bids.**

(a) Each contracting office shall retain a record of each invitation that it issues and each abstract or record of bids. Contracting officers shall review and utilize the information available in connection with subsequent acquisitions of the same or similar items.

(b) The file for each invitation shall show the distribution that was made and the date the invitation was issued. The names and addresses of prospective bidders who requested the invitation and were not included on the original solicitation list shall be added to the list and made a part of the record.

##### **14.205 Presolicitation notices.**

In lieu of initially forwarding complete bid sets, the contracting officer may send presolicitation notices to concerns. The notice shall—

- (a) Specify the final date for receipt of requests for a complete bid set;
- (b) Briefly describe the requirement and furnish other essential information to enable concerns to determine whether they have an interest in the invitation; and
- (c) Normally not include drawings, plans, and specifications. The return date of the notice must be sufficiently in advance of the mailing date of the invitation for bids to permit an accurate estimate of the number of bid sets required. Bid sets shall be sent to concerns that request them in response to the notice.

##### **14.206 [Reserved]**

##### **14.207 Pre-bid conference.**

A pre-bid conference may be used, generally in a complex acquisition, as a means of briefing prospective bidders and explaining complicated specifications and requirements to them as early as possible after the invitation has been issued.

and before the bids are opened. It shall never be used as a substitute for amending a defective or ambiguous invitation. The conference shall be conducted in accordance with the procedure prescribed in [15.201](#).

#### 14.208 Amendment of invitation for bids.

(a) If it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous invitation, such changes shall be accomplished by amendment of the invitation for bids using [Standard Form 30](#), Amendment of Solicitation/ Modification of Contract. The fact that a change was mentioned at a pre-bid conference does not relieve the necessity for issuing an amendment. Amendments shall be sent, before the time for bid opening, to everyone to whom invitations have been furnished and shall be displayed in the bid room.

(b) Before amending an invitation for bids, the contracting officer shall consider the period of time remaining until bid opening and the need to extend this period.

(c) Any information given to a prospective bidder concerning an invitation for bids shall be furnished promptly to all other prospective bidders as an amendment to the invitation (1) if such information is necessary for bidders to submit bids or (2) if the lack of such information would be prejudicial to uninformed bidders. The information shall be furnished even though a pre-bid conference is held. No award shall be made on the invitation unless such amendment has been issued in sufficient time to permit all prospective bidders to consider such information in submitting or modifying their bids.

#### 14.209 Cancellation of invitations before opening.

(a) The cancellation of an invitation for bids usually involves a loss of time, effort, and money spent by the Government and bidders. Invitations should not be cancelled unless cancellation is clearly in the public interest; *e.g.*,

(1) Where there is no longer a requirement for the supplies or services; or

(2) Where amendments to the invitation would be of such magnitude that a new invitation is desirable.

(b) When an invitation issued other than electronically is cancelled, bids that have been received shall be returned unopened to the bidders and notice of cancellation shall be sent to all prospective bidders to whom invitations were issued. When an invitation issued electronically is cancelled, a general notice of cancellation shall be posted electronically, the bids received shall not be viewed, and the bids shall be purged from primary and backup data storage systems.

(c) The notice of cancellation shall—(1) identify the invitation for bids by number and short title or subject matter, (2) briefly explain the reason the invitation is being cancelled, and (3) where appropriate, assure prospective bidders that they will be given an opportunity to bid on any resolicitation of bids or any future requirements for the type of supplies or services involved. Cancellations shall be recorded in accordance with [14.403\(d\)](#).

#### 14.210 Qualified products.

(See [Subpart 9.2](#).)

#### 14.211 Release of acquisition information.

(a) *Before solicitation.* Information concerning proposed acquisitions shall not be released outside the Government before solicitation except for presolicitation notices in accordance with [14.205](#) or [36.213-2](#), or long-range acquisition estimates in accordance with [5.404](#), or synopses in accordance with [5.201](#). Within the Government, such information shall be restricted to those having a legitimate interest. Releases of information shall be made (1) to all prospective bidders, and (2) as nearly as possible at the same time, so that one prospective bidder shall not be given unfair advantage over another. See [3.104](#) regarding requirements for proprietary and source selection information including access to and disclosure thereof.

(b) *After solicitation.* Discussions with prospective bidders regarding a solicitation shall be conducted and technical or other information shall be transmitted only by the contracting officer or superiors having contractual authority or by others specifically authorized. Such personnel shall not furnish any information to a prospective bidder that alone or together with other information may afford an advantage over others. However, general information that would not be prejudicial to other prospective bidders may be furnished upon request; *e.g.*, explanation of a particular contract clause or a particular condition of the schedule in the invitation for bids, and more specific information or clarifications may be furnished by amending the solicitation (see [14.208](#)).

#### 14.212 Economic purchase quantities (supplies).

Contracting officers shall comply with the economic purchase quantity planning requirements for supplies in [Subpart 7.2](#). See [7.203](#) for instructions regarding use of the provision at [52.207-4](#), Economic Purchase Quantity—Supplies, and [7.204](#) for guidance on handling responses to that provision.

This page intentionally left blank.

### Subpart 14.3—Submission of Bids

#### 14.301 Responsiveness of bids.

(a) To be considered for award, a bid must comply in all material respects with the invitation for bids. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system.

(b) Facsimile bids shall not be considered unless permitted by the solicitation (see [14.202-7](#)).

(c) Bids should be filled out, executed, and submitted in accordance with the instructions in the invitation. If a bidder uses its own bid form or a letter to submit a bid, the bid may be considered only if—

(1) The bidder accepts all the terms and conditions of the invitation; and

(2) Award on the bid would result in a binding contract with terms and conditions that do not vary from the terms and conditions of the invitation.

(d) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

#### 14.302 Bid submission.

Bids shall be submitted so that they will be received in the office designated in the invitation for bids not later than the exact time set for opening of bids.

#### 14.303 Modification or withdrawal of bids.

(a) Bids may be modified or withdrawn by any method authorized by the solicitation, if notice is received in the office designated in the solicitation not later than the exact time set for opening of bids. If the solicitation authorizes facsimile bids, bids may be modified or withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision prescribed in [14.201-6\(v\)](#). Modifications received by facsimile shall be sealed in an envelope by a proper official.

(1) The official shall—

(i) Write on the envelope—

(A) The date and time of receipt and by whom;

and

(B) The number of invitation for bids; and

(ii) Sign the envelope.

(2) No information contained in the envelope shall be disclosed before the time set for bid opening.

(b) A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening of bids, the identity of the persons requesting withdrawal is established and that person signs a receipt for the bid.

(c) Upon withdrawal of an electronically transmitted bid, the data received shall not be viewed and shall be purged from primary and backup data storage systems.

#### 14.304 Submission, modification, and withdrawal of bids.

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bid (IFB) by the time specified in the IFB. They may use any transmission method authorized by the IFB (*i.e.*, regular mail, electronic commerce, or facsimile). If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal of a bid received at the Government office designated in the IFB after the exact time specified for receipt of bids is “late” and will not be considered unless it is received before award is made, the contracting officer determines that accepting the late bid would not unduly delay the acquisition; and—

(i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government’s control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB, and urgent Government requirements preclude amendment of the bid opening date, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the IFB on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at [52.214-31](#), Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. Upon withdrawal of an electronically transmitted bid, the data received must not be viewed and, where practicable,

must be purged from primary and backup data storage systems.

(f) The contracting officer must promptly notify any bidder if its bid, modification, or withdrawal was received late, and must inform the bidder whether its bid will be considered, unless contract award is imminent and the notices prescribed in [14.409](#) would suffice.

(g) Late bids and modifications that are not considered must be held unopened, unless opened for identification, until

after award and then retained with other unsuccessful bids. However, any bid bond or guarantee must be returned.

(h) If available, the following must be included in the contract files for each late bid, modification, or withdrawal:

- (1) The date and hour of receipt.
- (2) A statement, with supporting rationale, regarding whether the bid was considered for award.
- (3) The envelope, wrapper, or other evidence of the date of receipt.



(1) A bidder requests permission to withdraw a bid rather than correct it;

(2) The evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended; and

(3) The bid, both as uncorrected and as corrected, is the lowest received, the agency head may make a determination to correct the bid and not permit its withdrawal.

(c) If, under paragraph (a) or (b) of this subsection, (1) the evidence of a mistake is clear and convincing only as to the mistake but not as to the intended bid, or (2) the evidence reasonably supports the existence of a mistake but is not clear and convincing, an official above the contracting officer, unless otherwise provided by agency procedures, may make a determination permitting the bidder to withdraw the bid.

(d) If the evidence does not warrant a determination under paragraph (a), (b), or (c) of this section, the agency head may make a determination that the bid be neither withdrawn nor corrected.

(e) Heads of agencies may delegate their authority to make the determinations under paragraphs (a), (b), (c), and (d) of this [14.407-3](#) to a central authority, or a limited number of authorities as necessary, in their agencies, without power of redelegation.

(f) Each proposed determination shall have the concurrence of legal counsel within the agency concerned before issuance.

(g) Suspected or alleged mistakes in bids shall be processed as follows. A mere statement by the administrative officials that they are satisfied that an error was made is insufficient.

(1) The contracting officer shall immediately request the bidder to verify the bid. Action taken to verify bids must be sufficient to reasonably assure the contracting officer that the bid as confirmed is without error, or to elicit the allegation of a mistake by the bidder. To assure that the bidder will be put on notice of a mistake suspected by the contracting officer, the bidder should be advised as appropriate—

(i) That its bid is so much lower than the other bids or the Government’s estimate as to indicate a possibility of error;

(ii) Of important or unusual characteristics of the specifications;

(iii) Of changes in requirements from previous purchases of a similar item; or

(iv) Of any other information, proper for disclosure, that leads the contracting officer to believe that there is a mistake in bid.

(2) If the bid is verified, the contracting officer shall consider the bid as originally submitted. If the time for acceptance of bids is likely to expire before a decision can be made, the contracting officer shall request all bidders whose bids may become eligible for award to extend the time for acceptance of their bids in accordance with [14.404-1\(d\)](#). If the bid-

der whose bid is believed erroneous does not (or cannot) grant an extension of time, the bid shall be considered as originally submitted (but see paragraph (g)(5) of this section). If the bidder alleges a mistake, the contracting officer shall advise the bidder to make a written request to withdraw or modify the bid. The request must be supported by statements (sworn statements, if possible) and shall include all pertinent evidence such as the bidder’s file copy of the bid, the original worksheets and other data used in preparing the bid, subcontractors’ quotations, if any, published price lists, and any other evidence that establishes the existence of the error, the manner in which it occurred, and the bid actually intended.

(3) When the bidder furnishes evidence supporting an alleged mistake, the contracting officer shall refer the case to the appropriate authority (see paragraph (e) of this section) together with the following data:

(i) A signed copy of the bid involved.

(ii) A copy of the invitation for bids and any specifications or drawings relevant to the alleged mistake.

(iii) An abstract or record of the bids received.

(iv) The written request by the bidder to withdraw or modify the bid, together with the bidder’s written statement and supporting evidence.

(v) A written statement by the contracting officer setting forth—

(A) A description of the supplies or services involved;

(B) The expiration date of the bid in question and of the other bids submitted;

(C) Specific information as to how and when the mistake was alleged;

(D) A summary of the evidence submitted by the bidder;

(E) In the event only one bid was received, a quotation of the most recent contract price for the supplies or services involved or, in the absence of a recent comparable contract, the contracting officer’s estimate of a fair price for the supplies or services;

(F) Any additional pertinent evidence; and

(G) A recommendation that either the bid be considered for award in the form submitted, or the bidder be authorized to withdraw or modify the bid.

(4) Where the bidder fails or refuses to furnish evidence in support of a suspected or alleged mistake, the contracting officer shall consider the bid as submitted unless (i) the amount of the bid is so far out of line with the amounts of other bids received, or with the amount estimated by the agency or determined by the contracting officer to be reasonable, or (ii) there are other indications of error so clear, as to reasonably justify the conclusion that acceptance of the bid would be unfair to the bidder or to other bona fide bidders. Attempts made to obtain the information required and the action taken with respect to the bid shall be fully documented.

(h) Each agency shall maintain records of all determinations made in accordance with this subsection [14.407-3](#), the facts involved, and the action taken in each case. Copies of all such determinations shall be included in the file.

(i) Nothing contained in this subsection [14.407-3](#) prevents an agency from submitting doubtful cases to the Comptroller General for advance decision.

#### **14.407-4 Mistakes after award.**

If a contractor's discovery and request for correction of a mistake in bid is not made until after the award, it shall be processed under the procedures of [Subpart 33.2](#) and the following:

(a) When a mistake in a contractor's bid is not discovered until after award, the mistake may be corrected by contract modification if correcting the mistake would be favorable to the Government without changing the essential requirements of the specifications.

(b) In addition to the cases contemplated in paragraph (a) of this section or as otherwise authorized by law, agencies are authorized to make a determination—

(1) To rescind a contract;

(2) To reform a contract—

(i) To delete the items involved in the mistake; or

(ii) To increase the price if the contract price, as corrected, does not exceed that of the next lowest acceptable bid under the original invitation for bids; or

(3) That no change shall be made in the contract as awarded, if the evidence does not warrant a determination under subparagraph (b)(1) or (2) of this section.

(c) Determinations under paragraph (b)(1) and (2) of this section may be made only on the basis of clear and convincing evidence that a mistake in bid was made. In addition, it must be clear that the mistake was—

(1) Mutual; or

(2) If unilaterally made by the contractor, so apparent as to have charged the contracting officer with notice of the probability of the mistake.

(d) Each proposed determination shall be coordinated with legal counsel in accordance with agency procedures.

(e) Mistakes alleged or disclosed after award shall be processed as follows:

(1) The contracting officer shall request the contractor to support the alleged mistake by submission of written statements and pertinent evidence, such as—

(i) The contractor's file copy of the bid,

(ii) The contractor's original worksheets and other data used in preparing the bid,

(iii) Subcontractors' and suppliers' quotations, if any,

(iv) Published price lists, and

(v) Any other evidence that will serve to establish the mistake, the manner in which the mistake occurred, and the bid actually intended.

(2) The case file concerning an alleged mistake shall contain the following:

(i) All evidence furnished by the contractor in support of the alleged mistake.

(ii) A signed statement by the contracting officer—

(A) Describing the supplies or services involved;

(B) Specifying how and when the mistake was alleged or disclosed;

(C) Summarizing the evidence submitted by the contractor and any additional evidence considered pertinent;

(D) Quoting, in cases where only one bid was received, the most recent contract price for the supplies or services involved, or in the absence of a recent comparable contract, the contracting officer's estimate of a fair price for the supplies or services and the basis for the estimate;

(E) Setting forth the contracting officer's opinion whether a bona fide mistake was made and whether the contracting officer was, or should have been, on constructive notice of the mistake before the award, together with the reasons for, or data in support of, such opinion;

(F) Setting forth the course of action with respect to the alleged mistake that the contracting officer considers proper on the basis of the evidence, and if other than a change in contract price is recommended, the manner by which the supplies or services will otherwise be acquired; and

(G) Disclosing the status of performance and payments under the contract, including contemplated performance and payments.

(iii) A signed copy of the bid involved.

(iv) A copy of the invitation for bids and any specifications or drawings relevant to the alleged mistake.

(v) An abstract of written record of the bids received.

(vi) A written request by the contractor to reform or rescind the contract, and copies of all other relevant correspondence between the contracting officer and the contractor concerning the alleged mistake.

(vii) A copy of the contract and any related change orders or supplemental agreements.

(f) Each agency shall include in the contract file a record of—

(1) All determinations made in accordance with this [14.407-4](#);

(2) The facts involved; and

(3) The action taken in each case.

#### **14.408 Award.**

##### **14.408-1 General.**

(a) The contracting officer shall make a contract award (1) by written or electronic notice, (2) within the time for

acceptance specified in the bid or an extension (see [14.404-1\(d\)](#)), and (3) to that responsible bidder whose bid, conforming to the invitation, will be most advantageous to the Government, considering only price and the price-related factors (see [14.201-8](#)) included in the invitation. Award shall not be made until all required approvals have been obtained and the award otherwise conforms with [14.103-2](#).

(b) If less than three bids have been received, the contracting officer shall examine the situation to ascertain the reasons for the small number of responses. Award shall be made notwithstanding the limited number of bids. However, the contracting officer shall initiate, if appropriate, corrective action to increase competition in future solicitations for the same or similar items, and include a notation of such action in the records of the invitation for bids (see [14.204](#)).

(c)(1) Award shall be made by mailing or otherwise furnishing a properly executed award document to the successful bidder.

(2) When a notice of award is issued, it shall be followed as soon as possible by the formal award.

(3) When more than one award results from any single invitation for bids, separate award documents shall be suitably numbered and executed.

(4) When an award is made to a bidder for less than all of the items that may be awarded to that bidder and additional items are being withheld for subsequent award, the award shall state that the Government may make subsequent awards on those additional items within the bid acceptance period.

(5) All provisions of the invitation for bids, including any acceptable additions or changes made by a bidder in the bid, shall be clearly and accurately set forth (either expressly or by reference) in the award document. The award is an acceptance of the bid, and the bid and the award constitute the contract.

(d)(1) Award is generally made by using the Award portion of [Standard Form \(SF\) 33](#), Solicitation, Offer, and Award, or [SF 1447](#), Solicitation/Contract (see [53.214](#)). If an offer from a [SF 33](#) leads to further changes, the resulting contract shall be prepared as a bilateral document on [SF 26](#), Award/Contract.

(2) Use of the Award portion of [SF 33](#), [SF 26](#), or [SF 1447](#), does not preclude the additional use of informal documents, including electronic communications, as notices of awards.

#### 14.408-2 Responsible bidder—reasonableness of price.

(a) The contracting officer shall determine that a prospective contractor is responsible (see [Subpart 9.1](#)) and that the prices offered are reasonable before awarding the contract. The price analysis techniques in [15.404-1\(b\)](#) may be used as guidelines. In each case the determination shall be made in the light of all prevailing circumstances. Particular care must be taken in cases where only a single bid is received.

(b) The price analysis shall consider whether bids are materially unbalanced (see [15.404-1\(g\)](#)).

#### 14.408-3 Prompt payment discounts.

(a) Prompt payment discounts shall not be considered in the evaluation of bids. However, any discount offered will form a part of the award, and will be taken by the payment center if payment is made within the discount period specified by the bidder. As an alternative to indicating a discount in conjunction with the offer, bidders may prefer to offer discounts on individual invoices.

(b) See [32.111\(b\)\(1\)](#), which prescribes the contract clause at [52.232-8](#), Discounts for Prompt Payment.

#### 14.408-4 Economic price adjustment.

(a) *Bidder proposes economic price adjustment.*  
(1) When a solicitation does not contain an economic price adjustment clause but a bidder proposes one with a ceiling that the price will not exceed, the bid shall be evaluated on the basis of the maximum possible economic price adjustment of the quoted base price.

(2) If the bid is eligible for award, the contracting officer shall request the bidder to agree to the inclusion in the award of an approved economic price adjustment clause (see [16.203](#)) that is subject to the same ceiling. If the bidder will not agree to an approved clause, the award may be made on the basis of the bid as originally submitted.

(3) Bids that contain economic price adjustments with no ceiling shall be rejected unless a clear basis for evaluation exists.

(b) *Government proposes economic price adjustment.*  
(1) When an invitation contains an economic price adjustment clause and no bidder takes exception to the provisions, bids shall be evaluated on the basis of the quoted prices without the allowable economic price adjustment being added.

(2) When a bidder increases the maximum percentage of economic price adjustment stipulated in the invitation or limits the downward economic price adjustment provisions of the invitation, the bid shall be rejected as nonresponsive.

(3) When a bid indicates deletion of the economic price adjustment clause, the bid shall be rejected as nonresponsive since the downward economic price adjustment provisions are thereby limited.

(4) When a bidder decreases the maximum percentage of economic price adjustment stipulated in the invitation, the bid shall be evaluated at the base price on an equal basis with bids that do not reduce the stipulated ceiling. However, after evaluation, if the bidder offering the lower ceiling is in a position to receive the award, the award shall reflect the lower ceiling.

#### 14.408-5 [Reserved]

**14.408-6 Equal low bids.**

(a) Contracts shall be awarded in the following order of priority when two or more low bids are equal in all respects:

- (1) Small business concerns that are also labor surplus area concerns.
- (2) Other small business concerns.
- (3) Other business concerns.

(b) If two or more bidders still remain equally eligible after application of paragraph (a) of this section, award shall be made by a drawing by lot limited to those bidders. If time permits, the bidders involved shall be given an opportunity to attend the drawing. The drawing shall be witnessed by at least three persons, and the contract file shall contain the names and addresses of the witnesses and the person supervising the drawing.

(c) When an award is to be made by using the priorities under this [14.408-6](#), the contracting officer shall include a written agreement in the contract that the contractor will perform, or cause to be performed, the contract in accordance with the circumstances justifying the priority used to break the tie or select bids for a drawing by lot.

**14.408-7 Documentation of award.**

(a) The contracting officer shall document compliance with [14.103-2](#) in the contract file.

(b) The documentation shall either state that the accepted bid was the lowest bid received, or list all lower bids with reasons for their rejection in sufficient detail to justify the award.

(c) When an award is made after receipt of equal low bids, the documentation shall describe how the tie was broken.

**14.408-8 Protests against award.**

(See [Subpart 33.1](#), Protests.)

**14.409 Information to bidders.****14.409-1 Award of unclassified contracts.**

(a)(1) The contracting officer shall as a minimum (subject to any restrictions in [Subpart 9.4](#))—

(i) Notify each unsuccessful bidder in writing or electronically within three days after contract award, that its bid was not accepted. “Day,” for purposes of the notification

process, means calendar day, except that the period will run until a day which is not a Saturday, Sunday, or legal holiday;

(ii) Extend appreciation for the interest the unsuccessful bidder has shown in submitting a bid; and

(iii) When award is made to other than a low bidder, state the reason for rejection in the notice to each of the unsuccessful low bidders.

(2) For acquisitions covered by the World Trade Organization Government Procurement Agreement or a Free Trade Agreement (see [25.408\(a\)\(5\)](#)), agencies must include in notices given unsuccessful bidders from World Trade Organization Government Procurement Agreement or Free Trade Agreement countries—

(i) The dollar amount of the successful bid; and

(ii) The name and address of the successful bidder.

(b) Information included in paragraph (a)(2) of this subsection shall be provided to any unsuccessful bidder upon request except when multiple awards have been made and furnishing information on the successful bids would require so much work as to interfere with normal operations of the contracting office. In such circumstances, only information concerning location of the abstract of offers need be given.

(c) When a request is received concerning an unclassified invitation from an inquirer who is neither a bidder nor a representative of a bidder, the contracting officer should make every effort to furnish the names of successful bidders and, if requested, the prices at which awards were made. However, when such requests require so much work as to interfere with the normal operations of the contracting office, the inquirer will be advised where a copy of the abstract of offers may be seen.

(d) Requests for records shall be governed by agency regulations implementing [Subpart 24.2](#).

**14.409-2 Award of classified contracts.**

In addition to [14.409-1](#), if classified information was furnished or created in connection with the solicitation, the contracting officer shall advise the unsuccessful bidders, including any who did not bid, to take disposition action in accordance with agency procedures. The name of the successful bidder and the contract price will be furnished to unsuccessful bidders only upon request. Information regarding a classified award shall not be furnished by telephone.

## Subpart 19.3—Determination of Small Business Status for Small Business Programs

### 19.301 Representations and rerepresentations.

#### 19.301-1 Representation by the offeror.

(a) To be eligible for award as a small business, an offeror must represent in good faith that it is a small business at the time of its written representation. An offeror may represent that it is a small business concern in connection with a specific solicitation if it meets the definition of a small business concern applicable to the solicitation and has not been determined by the Small Business Administration (SBA) to be other than a small business.

(b) The contracting officer shall accept an offeror's representation in a specific bid or proposal that it is a small business unless (1) another offeror or interested party challenges the concern's small business representation or (2) the contracting officer has a reason to question the representation. Challenges of and questions concerning a specific representation shall be referred to the SBA in accordance with [19.302](#).

(c) An offeror's representation that it is a small business is not binding on the SBA. If an offeror's small business status is challenged, the SBA will evaluate the status of the concern and make a determination, which will be binding on the contracting officer, as to whether the offeror is a small business. A concern cannot become eligible for a specific award by taking action to meet the definition of a small business concern after the SBA has determined that it is not a small business.

(d) If the SBA determines that the status of a concern as a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business has been misrepresented in order to obtain a set-aside contract, an 8(a) subcontract, a subcontract that is to be included as part or all of a goal contained in a subcontracting plan, or a prime or subcontract to be awarded as a result, or in furtherance of any other provision of Federal law that specifically references Section 8(d) of the Small Business Act for a definition of program eligibility, the SBA may take action as specified in Sections 16(a) or 16(d) of the Act. If the SBA declines to take action, the agency may initiate the process. The SBA's regulations on penalties for misrepresentations and false statements are contained in 13 CFR 121.108 for small business, 13 CFR 124.501 for 8(a) small business, 13 CFR 124.1004 for small disadvantaged business, 13 CFR 125.29 for veteran or service-disabled veteran-owned small business, 13 CFR 126.900 for HUBZone small business, and 13 CFR 127.700 for economically disadvantaged women-owned small business concerns and women-owned small business (WOSB) concerns eligible under the WOSB Program.

#### 19.301-2 Rerepresentation by a contractor that represented itself as a small business concern.

(a) *Definition.* As used in this subsection—

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at [52.217-8](#), Option to Extend Services, or other appropriate authority.

(b) A contractor that represented itself as a small business concern before contract award must rerepresent its size status for the North American Industry Classification System (NAICS) code in the contract upon the occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include the clause at [52.219-28](#), Post-Award Small Business Program Rerepresentation, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition of the contractor that does not require novation or within 30 days after modification of the contract to include the clause at [52.219-28](#), Post-Award Small Business Program Rerepresentation, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts—

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) A contractor must rerepresent its size status in accordance with the size standard in effect at the time of its rerepresentation that corresponds to the NAICS code that was initially assigned to the contract.

(d) After a contractor rerepresents it is other than small in accordance with [52.219-28](#), the agency may no longer include the value of options exercised, modifications issued, orders issued, or purchases made under blanket purchase agreements on that contract in its small business prime contracting goal achievements. Agencies should issue a modification to the contract capturing the rerepresentation and report it to FPDS within 30 days after notification of the rerepresentation.

(e) A change in size status does not change the terms and conditions of the contract. However, the contracting officer may require a subcontracting plan for a contract containing [52.219-9](#), Small Business Subcontracting Plan, if a prime contractor's size status changes from small to other than small as a result of a size rerepresentation (see [19.705-2\(b\)\(3\)](#)).

**19.301-3 Rerepresentation by a contractor that represented itself as other than a small business concern.**

A contractor that represented itself as other than small before contract award may, but is not required to, rerepresent its size status when—

- (a) The conditions in [19.301-2\(b\)](#) apply; and
- (b) The contractor qualifies as a small business concern under the applicable size standard in effect at the time of its rerepresentation.

**19.302 Protesting a small business representation or rerepresentation.**

(a)(1) The Small Business Administration (SBA) regulations on small business size and size protests are found at 13 CFR part 121.

(2) An offeror, the SBA, or another interested party may protest the small business representation of an offeror in a specific offer. However, for competitive 8(a) contracts, the filing of a protest is limited to an offeror, the contracting officer, or the SBA.

(b) Any time after offers are opened, the contracting officer may question the small business representation of any offeror in a specific offer by filing a contracting officer's protest (see paragraph (c) of this section).

(c)(1) Any contracting officer who receives a protest, whether timely or not, or who, as the contracting officer, wishes to protest the small business representation of an offeror, or rerepresentation of a contractor, shall promptly forward the protest to the SBA Government Contracting Area Director at the Government Contracting Area Office serving the area in which the headquarters of the offeror is located.

(2) The protest, or confirmation if the protest was initiated orally, shall be in writing and shall contain the basis for the protest with specific, detailed evidence to support the allegation that the offeror is not small. The SBA will dismiss any protest that does not contain specific grounds for the protest.

(3) The protest shall include a referral letter written by the contracting officer with information pertaining to the solicitation. The referral letter must include the following information to allow SBA to determine timeliness and standing:

- (i) The protest and any accompanying materials.
- (ii) A copy of the size self-certification.
- (iii) Identification of the applicable size standard.
- (iv) A copy or an electronic link to the solicitation and any amendments.
- (v) The name, address, telephone number, email address, and fax number of the contracting officer.
- (vi) Identification of the bid opening date or the date of notification provided to unsuccessful offerors.
- (vii) The date the contracting officer received the protest.

(viii) A complete address and point of contact for the protested concern.

(d) In order to affect a specific solicitation, a protest must be timely. SBA's regulations on timeliness are contained in 13 CFR 121.1004. SBA's regulations on timeliness related to protests of disadvantaged status are contained in 13 CFR 124, Subpart B.

(1) To be timely, a protest by any concern or other interested party must be received by the contracting officer (see paragraphs (d)(1)(i) and (ii) of this section) by the close of business of the fifth business day after bid opening (in sealed bid acquisitions) or receipt of the special notification from the contracting officer that identifies the apparently successful offeror (in negotiated acquisitions) (see [15.503\(a\)\(2\)](#)).

(i) A protest may be made orally if it is confirmed in writing and received by the contracting officer within the 5-day period or by letter postmarked no later than 1 business day after the oral protest.

(ii) A protest may be made in writing if it is delivered to the contracting officer by hand, mail, facsimile, e-mail, express or overnight delivery service.

(2) Except as provided in paragraph (d)(4) of this section, a protest filed by the contracting officer or SBA is always considered timely whether filed before or after award.

(3) A protest under a Multiple Award Schedule will be timely if received by SBA at any time prior to the expiration of the contract period, including renewals.

(4) A protest filed before bid opening, or notification to offerors of the selection of the apparent successful offeror, will be dismissed as premature by SBA.

(e) Upon receipt of a protest from or forwarded by the Contracting Office, the SBA will—

(1) Notify the contracting officer and the protester of the date it was received, and that the size of the concern being challenged is under consideration by the SBA; and

(2) Furnish to the concern whose representation is being protested a copy of the protest and a blank SBA Form 355, Application for Small Business Determination, by certified mail, return receipt requested.

(f)(1) Within 15 business days after receipt of a protest or request for a formal size determination or within any extension of time granted by the contracting officer the SBA Area Office will determine the size status of the challenged concern. The SBA Area Office will notify the contracting officer, the protester, and the challenged concern of its decision by a verifiable means, which may include facsimile, electronic mail, or overnight delivery service.

(2) Award may be made to a protested concern after the SBA Area Office has determined that either the protested concern is an eligible small business or has dismissed all protests against it.

(3) If SBA's Office of Hearings and Appeals (OHA) subsequently overturns the Area Office's determination of eligibility or dismissal, and contract award has not been made,

## Subpart 22.10—Service Contract Labor Standards

### 22.1000 Scope of subpart.

This subpart prescribes policies and procedures implementing the provisions of [41 U.S.C. chapter 67](#), Service Contract Labor Standards (formerly known as the Service Contract Act of 1965), the applicable provisions of the Fair Labor Standards Act of 1938, as amended ([29 U.S.C. 201](#), *et seq.*), and related Secretary of Labor regulations and instructions (29 CFR parts 4, 6, 8, and 1925).

### 22.1001 Definitions.

As used in this subpart—

“Contractor” includes a subcontractor at any tier whose subcontract is subject to the provisions of the statute.

“Multiple year contracts” means contracts having a term of more than 1 year regardless of fiscal year funding. The term includes multi year contracts (see [17.103](#)).

“United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act ([43 U.S.C. 1331](#), *et seq.*), but does not include any other place subject to U.S. jurisdiction or any U.S. base or possession within a foreign country (29 CFR 4.112).

“Wage and Hour Division” means the unit in the Employment Standards Administration of the Department of Labor to which is assigned functions of the Secretary of Labor under the Service Contract Labor Standards statute.

“Wage determination” means a determination of minimum wages or fringe benefits made under [41 U.S.C. 6703](#) or 6707(c) applicable to the employment in a given locality of one or more classes of service employees.

### 22.1002 Statutory and Executive Order requirements.

#### 22.1002-1 General.

Service contracts over \$2,500 shall contain mandatory provisions regarding minimum wages and fringe benefits, safe and sanitary working conditions, notification to employees of the minimum allowable compensation, and equivalent Federal employee classifications and wage rates. Under [41 U.S.C. 6707\(d\)](#), service contracts may not exceed 5 years.

#### 22.1002-2 Wage determinations based on prevailing rates.

Contractors performing on service contracts in excess of \$2,500 to which no predecessor contractor’s collective bargaining agreement applies shall pay their employees at least

the wages and fringe benefits found by the Department of Labor to prevail in the locality or, in the absence of a wage determination, the minimum wage set forth in the Fair Labor Standards Act.

#### 22.1002-3 Wage determinations based on collective bargaining agreements.

(a) Successor contractors performing on contracts in excess of \$2,500 for substantially the same services performed in the same locality must pay wages and fringe benefits (including accrued wages and benefits and prospective increases) at least equal to those contained in any bona fide collective bargaining agreement entered into under the predecessor contract. This requirement is self-executing and is not contingent upon incorporating a wage determination or the wage and fringe benefit terms of the predecessor contractor’s collective bargaining agreement in the successor contract. This requirement will not apply if the Secretary of Labor determines—

(1) After a hearing, that the wages and fringe benefits are substantially at variance with those which prevail for services of a similar character in the locality; or

(2) That the wages and fringe benefits are not the result of arm’s length negotiations.

(b) Paragraphs in this [subpart 22.10](#) which deal with this statutory requirement and the Department of Labor’s implementing regulations are [22.1010](#), concerning notification to contractors and bargaining representatives of procurement dates; [22.1012-2](#), explaining when a collective bargaining agreement will not apply due to late receipt by the contracting officer; and [22.1013](#) and [22.1021](#), explaining when the application of a collective bargaining agreement can be challenged due to a variance with prevailing rates or lack of arm’s length bargaining.

#### 22.1002-4 Application of the Fair Labor Standards Act minimum wage.

No contractor or subcontractor holding a service contract for any dollar amount shall pay any of its employees working on the contract less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act ([29 U.S.C. 206](#)).

#### 22.1002-5 Executive Order 13658.

Executive Order 13658 establishes minimum wages for certain workers. The wage rate is subject to annual increases by an amount determined by the Secretary of Labor. See [subpart 22.19](#). The clause at [52.222-55](#), Minimum Wages under Executive Order 13658, requires the Executive Order 13658 minimum wage rate to be paid if it is higher than other minimum wage rates, such as the [subpart 22.10](#) statutory wage determination amount.

**22.1003 Applicability.****22.1003-1 General.**

This [subpart 22.10](#) applies to all Government contracts, the principal purpose of which is to furnish services in the United States through the use of service employees, except as exempted in [22.1003-3](#) and [22.1003-4](#) of this section, or any subcontract at any tier thereunder. This subpart does not apply to individual contract requirements for services in contracts not having as their principal purpose the furnishing of services. The nomenclature, type, or particular form of contract used by contracting agencies is not determinative of coverage.

**22.1003-2 Geographical coverage of the Act.**

The Service Contract Labor Standards statute applies to service contracts performed in the United States (see [22.1001](#)). The Service Contract Labor Standards statute does not apply to contracts performed outside the United States.

**22.1003-3 Statutory exemptions.**

The Service Contract Labor Standards statute does not apply to—

(a) Any contract for construction, alteration, or repair of public buildings or public works, including painting and decorating;

(b) Any work required to be done in accordance with the provisions of [41 U.S.C. chapter 65](#), Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000;

(c) Any contract for transporting freight or personnel by vessel, aircraft, bus, truck, express, railroad, or oil or gas pipeline where published tariff rates are in effect;

(d) Any contract for furnishing services by radio, telephone, or cable companies subject to the Communications Act of 1934;

(e) Any contract for public utility services;

(f) Any employment contract providing for direct services to a Federal agency by an individual or individuals; or

(g) Any contract for operating postal contract stations for the U.S. Postal Service.

**22.1003-4 Administrative limitations, variations, tolerances, and exemptions.**

(a) The Secretary of Labor may provide reasonable limitations and may make rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of the Service Contract Labor Standards statute other than [41 U.S.C. 6707\(f\)](#). These will be made only in special circumstances where it has been determined that the limitation, variation, tolerance, or exemption is necessary and proper in the public interest or to avoid the serious impairment of Government business, and is in accord with the remedial purpose of the Service Contract Labor Standards statute to protect prevailing labor standards ([41 U.S.C. 6707\(b\)](#)). See 29 CFR 4.123 for a listing of administrative exemptions, tolerances, and variations. Requests for limitations, variances,

tolerances, and exemptions from the Service Contract Labor Standards statute shall be submitted in writing through contracting channels and the agency labor advisor to the Wage and Hour Administrator.

(b) In addition to the statutory exemptions cited in [22.1003-3](#) of this subsection, the Secretary of Labor has exempted the following types of contracts from all provisions of the Service Contract Labor Standards statute:

(1) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom.

(2) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service if it is not contemplated at the time the contract is made that the owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness, or accident.

(3) Contracts for the carriage of freight or personnel if such carriage is subject to rates covered by section 10721 of the Interstate Commerce Act.

(c) *Contracts for maintenance, calibration or repair of certain equipment.*— (1) *Exemption.* The Secretary of Labor has exempted from the Service Contract Labor Standards statute contracts and subcontracts in which the primary purpose is to furnish maintenance, calibration, or repair of the following types of equipment, if the conditions at paragraph (c)(2) of this subsection are met:

(i) Automated data processing equipment and office information/word processing systems.

(ii) Scientific equipment and medical apparatus or equipment if the application of micro-electronic circuitry or other technology of at least similar sophistication is an essential element (for example, Product or Service Code (PSC) 6515, “Medical and Surgical Instruments, Equipment, and Supplies;” PSC 6525, “Imaging Equipment and Supplies: Medical, Dental, Veterinary;” PSC 6630, “Chemical Analysis Instruments;” and PSC 6655, “Geophysical Instruments;” are largely composed of the types of equipment exempted in this paragraph).

(iii) Office/business machines not otherwise exempt pursuant to paragraph (c)(1)(i) of this subsection, if such services are performed by the manufacturer or supplier of the equipment.

(2) *Conditions.* The exemption at paragraph (c)(1) of this subsection applies if all the following conditions are met for a contract (or a subcontract):

(i) The items of equipment to be serviced under the contract are used regularly for other than Government purposes and are sold or traded by the contractor in substantial quantities to the general public in the course of normal business operations.



**PART 23—ENVIRONMENT, ENERGY AND WATER EFFICIENCY,  
RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND  
DRUG-FREE WORKPLACE**

*Sec.*

23.000 Scope.

23.001 Definitions.

23.002 Policy.

**Subpart 23.1—Sustainable Acquisition Policy**

23.101 Definition.

23.102 Authorities.

23.103 Sustainable acquisitions.

23.104 Exceptions.

23.105 Exemption authority.

**Subpart 23.2—Energy and Water Efficiency and  
Renewable Energy**

23.200 Scope.

23.201 Authorities.

23.202 Policy.

23.203 Energy-efficient products.

23.204 Procurement exemptions.

23.205 Energy-savings performance contracts.

23.206 Contract clause.

**Subpart 23.3—Hazardous Material  
Identification and Material Safety Data**

23.300 Scope of subpart.

23.301 Definition.

23.302 Policy.

23.303 Contract clause.

**Subpart 23.4—Use of Recovered Materials and  
Biobased Products**

23.400 Scope of subpart.

23.401 Definitions.

23.402 Authorities.

23.403 Policy.

23.404 Agency affirmative procurement programs.

23.405 Procedures.

23.406 Solicitation provisions and contract clauses.

**Subpart 23.5—Drug-Free Workplace**

23.500 Scope of subpart.

23.501 Applicability.

23.502 Authority.

23.503 Definitions.

23.504 Policy.

23.505 Contract clause.

23.506 Suspension of payments, termination of contract,  
and debarment and suspension actions.

**Subpart 23.6—Notice of Radioactive Material**

23.601 Requirements.

23.602 Contract clause.

**Subpart 23.7—Contracting for Environmentally  
Preferable Products and Services**

23.700 Scope.

23.701 Definitions.

23.702 Authorities.

23.703 Policy.

23.704 Electronic products environmental assessment  
tool.

23.705 Contract clauses.

**Subpart 23.8—Ozone-Depleting Substances and  
Greenhouse Gases**

23.800 Scope of subpart.

23.801 Authorities.

23.802 Policy.

23.803 Procedures.

23.804 Contract provision and clauses.

**Subpart 23.9—Contractor Compliance with  
Environmental Management Systems**

23.900 Scope.

23.901 Authority.

23.902 Policy.

23.903 Contract clause.

**Subpart 23.10—Federal Compliance with Right-  
to-Know Laws and Pollution Prevention  
Requirements**

23.1000 Scope.

23.1001 Authorities.

23.1002 Applicability.

23.1003 Definitions.

23.1004 Requirements.

23.1005 Contract clause.

**Subpart 23.11—Encouraging Contractor  
Policies to Ban Text Messaging While Driving**

23.1101 Purpose.

23.1102 Applicability.

23.1103 Definitions.

23.1104 Policy.

23.1105 Contract clause.

This page intentionally left blank.

**23.000 Scope.**

This part prescribes acquisition policies and procedures supporting the Government’s program for ensuring a drug-free workplace, for protecting and improving the quality of the environment, and to foster markets for sustainable technologies, materials, products, and services, and for encouraging the safe operation of vehicles.

**23.001 Definitions.**

As used in this part—

“Environmental” means environmental aspects of internal agency operations and activities, including those aspects related to energy and transportation functions.

“Greenhouse gases” means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, nitrogen trifluoride, and sulfur hexafluoride.

“Toxic chemical” means a chemical or chemical category listed in 40 CFR 372.65.

“United States”, except as used in subpart [23.10](#), means—

- (1) The fifty States;
- (2) The District of Columbia;
- (3) The commonwealths of Puerto Rico and the Northern Mariana Islands;
- (4) The territories of Guam, American Samoa, and the United States Virgin Islands; and
- (5) Associated territorial waters and airspace.

**23.002 Policy.**

Executive Order 13423 sections 3(e) and (f) require that contracts for contractor operation of a Government-owned or -leased facility and contracts for support services at a Government-owned or -operated facility include provisions that obligate the contractor to comply with the requirements of the order to the same extent as the agency would be required to comply if the agency operated or supported the facility. Compliance includes developing programs to promote and implement cost-effective waste reduction.

**Subpart 23.1—Sustainable Acquisition Policy**

**23.101 Definition.**

As used in this subpart—

“Contract action” means any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars, including purchases below the micro-purchase threshold. Contract action does not include grants, cooperative agreements, other transactions, real property leases, requisitions from Federal stock, training authorizations, or other non-FAR based transactions.

**23.102 Authorities.**

(a) Executive Order 13423 of January 24, 2007, Strengthening Federal Environmental, Energy, and Transportation Management.

(b) Executive Order 13514 of October 5, 2009, Federal Leadership in Environmental, Energy, and Economic Performance.

(c) All of the authorities specified in subparts [23.2](#), [23.4](#), [23.7](#), [23.8](#), [23.9](#), and [23.10](#).

**23.103 Sustainable acquisitions.**

(a) Federal agencies shall advance sustainable acquisition by ensuring that 95 percent of new contract actions for the supply of products and for the acquisition of services (including construction) require that the products are—

- (1) Energy-efficient (ENERGY STAR® or Federal Energy Management Program (FEMP)-designated);
- (2) Water-efficient;
- (3) Biobased;
- (4) Environmentally preferable (*e.g.*, EPEAT®-registered, or non-toxic or less toxic alternatives);
- (5) Non-ozone depleting; or
- (6) Made with recovered materials.

(b) The required products in the contract actions for services include products that are—

- (1) Delivered to the Government during performance;
- (2) Acquired by the contractor for use in performing services at a Federally-controlled facility; or
- (3) Furnished by the contractor for use by the Government.

(c) The required products in the contract actions must meet agency performance requirements.

(d) For purposes of meeting the 95 percent sustainable acquisition requirement, the term “contract actions” includes new contracts (and task and delivery orders placed against them) and new task and delivery orders on existing contracts.

**23.104 Exceptions.**

This subpart does not apply to the following acquisitions:

- (a) Contracts performed outside of the United States, unless the agency head determines that such application is in the interest of the United States.
- (b) Weapon systems.

**23.105 Exemption authority.**

(a) The head of an agency may exempt—

- (1) Intelligence activities of the United States, and related personnel, resources, and facilities, to the extent the Director of National Intelligence or agency head determines it necessary to protect intelligence sources and methods from unauthorized disclosure;
- (2) Law enforcement activities of that agency and related personnel, resources, and facilities, to the extent the

head of an agency determines it necessary to protect under-cover operations from unauthorized disclosure;

(3) Law enforcement, protective, emergency response, or military tactical vehicle fleets of that agency; and

(4) Agency activities and facilities in the interest of national security.

(b) If the head of the agency issues an exemption under paragraph (a) of this section, the agency must notify the Chair

of the Council on Environmental Quality in writing within 30 days of the issuance of the exemption.

(c) The agency head may submit through the Chair of the Council on Environmental Quality a request for exemption of an agency activity other than those activities listed in paragraph (a) of this section and related personnel, resources, and facilities.

## Subpart 23.8—Ozone-Depleting Substances and Greenhouse Gases

### 23.800 Scope of subpart.

This subpart—

(a) Sets forth policies and procedures for the acquisition of items that—

(1) Contain, use, or are manufactured with ozone-depleting substances; or

(2) Contain or use high global warming potential hydrofluorocarbons; and

(b) Addresses public disclosure of greenhouse gas emissions and reduction goals.

### 23.801 Authorities.

(a) Title VI of the Clean Air Act ([42 U.S.C. 7671](#), *et seq.*).

(b) Section 706 of Division D, Title VII of the Omnibus Appropriations Act, 2009 (Pub. L. 111-8).

(c) Executive Order 13693 of March 25, 2015, Planning for Federal Sustainability in the Next Decade.

(d) Environmental Protection Agency (EPA) regulations, Protection of Stratospheric Ozone (40 CFR part 82).

### 23.802 Policy.

It is the policy of the Federal Government that Federal agencies—

(a) Implement cost-effective programs to minimize the procurement of materials and substances that contribute to the depletion of stratospheric ozone and/or result in the use, release or emission of high global warming potential hydrofluorocarbons;

(b) Give preference to the procurement of acceptable alternative chemicals, products, and manufacturing processes that reduce overall risks to human health and the environment by minimizing—

(1) The depletion of ozone in the upper atmosphere; and

(2) The potential use, release, or emission of high global warming potential hydrofluorocarbons;

(c) Lead efforts to reduce greenhouse gas emissions at the Federal level in accordance with Executive Order 13693 and the President’s Climate Action Plan of June 2013; and

(d) In order to better understand both direct and indirect greenhouse gas emissions that result from Federal activities, require offerors that are registered in the System for Award Management (SAM) database and received \$7.5 million or more in Federal contract awards in the prior Federal fiscal year to—

(1) Represent whether they publicly disclose greenhouse gas emissions;

(2) Represent whether they publicly disclose a quantitative greenhouse gas emissions reduction goal; and

(3) Provide the website for any such disclosures.

### 23.803 Procedures.

In preparing specifications and purchase descriptions, and in the acquisition of products and services, agencies shall—

(a) Comply with the requirements of title VI of the Clean Air Act, section 706 of division D, title VII of Pub. L. 111-8, Executive Order 13693, and 40 CFR 82.84(a)(2), (3), (4), and (5);

(b) Substitute acceptable alternatives to ozone-depleting substances, as identified under [42 U.S.C. 7671k](#), to the maximum extent practicable, as provided in 40 CFR 82.84(a)(1), except in the case of Class I substances being used for specified essential uses, as identified under 40 CFR 82.4(n);

(c) Unless a particular contract requires otherwise, specify that, when feasible, contractors shall use another acceptable alternative in lieu of a high global warming potential hydrofluorocarbon in products and services in a particular end use for which EPA’s Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential; and

(d) Refer to EPA’s SNAP program for the list of alternatives, found at 40 CFR part 82, subpart G as well as supplemental tables of alternatives (available at <http://www.epa.gov/snap>).

### 23.804 Contract provision and clauses.

(a) Except for contracts for supplies that will be delivered outside the United States and its outlying areas, or contracts for services that will be performed outside the United States and its outlying areas, the contracting officer shall insert the following clauses:

(1) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons, in solicitations and contracts for—

(i) Refrigeration equipment (in product or service code (PSC) 4110);

(ii) Air conditioning equipment (PSC 4120);

(iii) Clean agent fire suppression systems/equipment (*e.g.*, installed room flooding systems, portable fire extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210);

(iv) Bulk refrigerants and fire suppressants (in PSC 6830);

(v) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 6850);

(vi) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 8030);

(vii) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and

FAC 2005–92 DECEMBER 19, 2016

(viii) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.

(2) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners, in solicitations and contracts that include the maintenance, service, repair, or disposal of—

(i) Refrigeration equipment, such as refrigerators, chillers, or freezers; or

(ii) Air conditioners, including air conditioning systems in motor vehicles.

(3) [52.223-20](#), Aerosols, in solicitations and contracts—

(i) For products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or

(ii) That involve maintenance or repair of electronic or mechanical devices.

(4) [52.223-21](#), Foams, in solicitations and contracts for—

(i) Products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent, such as building foam insulation or appliance foam insulation; or

(ii) Construction of buildings or facilities.

(b) The provision at [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation, is required only when [52.204-7](#), System for Award Management, is included in the solicitation (see [52.204-8](#), Annual Representations and Certifications).

\* \* \* \* \*

## Subpart 25.4—Trade Agreements

### 25.400 Scope of subpart.

(a) This subpart provides policies and procedures applicable to acquisitions that are covered by—

(1) The World Trade Organization Government Procurement Agreement (WTO GPA), as approved by Congress in the Uruguay Round Agreements Act (Public Law 103-465);

(2) Free Trade Agreements (FTA), consisting of—

(i) NAFTA (the North American Free Trade Agreement, as approved by Congress in the North American Free Trade Agreement Implementation Act of 1993 (Pub. L. 103-182) ([19 U.S.C. 3301](#) note));

(ii) Chile FTA (the United States-Chile Free Trade Agreement, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act of 1993 (Pub. L. 108-77) ([19 U.S.C. 3805](#) note));

(iii) Singapore FTA (the United States-Singapore Free Trade Agreement, as approved by Congress in the United States-Singapore Free Trade Agreement Implementation Act (Pub. L. 108-78) ([19 U.S.C. 3805](#) note));

(iv) Australia FTA (the United States-Australia Free Trade Agreement, as approved by Congress in the United States-Australia Free Trade Agreement Implementation Act (Pub. L. 108-286) ([19 U.S.C. 3805](#) note));

(v) Morocco FTA (The United States-Morocco Free Trade Agreement, as approved by Congress in the United States-Morocco Free Trade Agreement Implementation Act (Pub. L. 108-302) ([19 U.S.C. 3805](#) note));

(vi) CAFTA-DR (The Dominican Republic-Central America-United States Free Trade Agreement, as approved by Congress in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109-53) ([19 U.S.C. 4001](#) note));

(vii) Bahrain FTA (the United States-Bahrain Free Trade Agreement, as approved by Congress in the United States-Bahrain Free Trade Agreement Implementation Act (Pub. L. 109-169) ([19 U.S.C. 3805](#) note));

(viii) Oman FTA (the United States-Oman Free Trade Agreement, as approved by Congress in the United States-Oman Free Trade Agreement Implementation Act (Pub. L. 109-283) ([19 U.S.C. 3805](#) note));

(ix) Peru FTA (the United States-Peru Trade Promotion Agreement, as approved by Congress in the United States-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110-138) ([19 U.S.C. 3805](#) note));

(x) Korea FTA (the United States–Korea Free Trade Agreement Implementation Act (Pub. L. 112-41) ([19 U.S.C. 3805](#)));

(xi) Colombia FTA (the United States–Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112-42) ([19 U.S.C. 3805](#) note)); and

(xii) Panama FTA (the United States–Panama Trade Promotion Agreement Implementation Act (Pub. L. 112-43) ([19 U.S.C. 3805](#) note));

(3) The least developed country designation made by the U.S. Trade Representative, pursuant to the Trade Agreements Act ([19 U.S.C. 2511\(b\)\(4\)](#)), in acquisitions covered by the WTO GPA;

(4) The Caribbean Basin Trade Initiative (CBTI) (determination of the U.S. Trade Representative that end products or construction material granted duty-free entry from countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act ([19 U.S.C. 2701](#), *et seq.*), with the exception of Panama, must be treated as eligible products in acquisitions covered by the WTO GPA);

(5) The Israeli Trade Act (the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the United States-Israel Free Trade Area Implementation Act of 1985 ([19 U.S.C. 2112](#) note)); or

(6) The Agreement on Trade in Civil Aircraft (U.S. Trade Representative waiver of the Buy American statute for signatories of the Agreement on Trade in Civil Aircraft, as implemented in the Trade Agreements Act of 1979 ([19 U.S.C. 2513](#))).

(b) For application of the trade agreements that are unique to individual agencies, see agency regulations.

### 25.401 Exceptions.

(a) This subpart does not apply to—

(1) Acquisitions set aside for small businesses;

(2) Acquisitions of arms, ammunition, or war materials, or purchases indispensable for national security or for national defense purposes;

(3) Acquisitions of end products for resale;

(4) Acquisitions from Federal Prison Industries, Inc., under [subpart 8.6](#), and acquisitions under [subpart 8.7](#), Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled; and

(5) Other acquisitions not using full and open competition, if authorized by [subpart 6.2](#) or [6.3](#), when the limitation of competition would preclude use of the procedures of this subpart; or sole source acquisitions justified in accordance with [13.501\(a\)](#).

(b) In the World Trade Organization Government Procurement Agreement (WTO GPA) and each FTA, there is a U.S. schedule that lists services that are excluded from that agreement in acquisitions by the United States. Acquisitions of the following services are excluded from coverage by the U.S. schedule of the WTO GPA or an FTA as indicated in this table:

FAC 2005-92 DECEMBER 19, 2016

25.401

FEDERAL ACQUISITION REGULATION

	THE SERVICE (FEDERAL SERVICE CODES FROM THE FEDERAL PROCUREMENT DATA SYSTEM PRODUCT/ SERVICE CODE MANUAL ARE INDICATED IN PARENTHESES FOR SOME SERVICES.)	WTO GPA AND KOREA FTA	BAHRAIN FTA, CAFTA-DR, CHILE FTA, COLOMBIA FTA, NAFTA, OMAN FTA, PANAMA FTA, AND PERU FTA	SINGAPORE FTA	AUSTRALIA AND MOROCCO FTA
(1)	All services purchased in support of military services overseas.	X	X	X	X
(2)	(i) Automatic data processing (ADP) telecommunications and transmission services (D304), except enhanced ( <i>i.e.</i> , value-added) telecommunications services.	X	X		
	(ii) ADP teleprocessing and timesharing services (D305), telecommunications network management services (D316), automated news services, data services or other information services (D317), and other ADP and telecommunications services (D399).	X	X		
	(iii) Basic telecommunications network services ( <i>i.e.</i> , voice telephone services, packet-switched data transmission services, circuit-switched data transmission services, telex services, facsimile services, and private leased circuit services, but not information services, as defined in <a href="#">47 U.S.C. 153(24)</a> ).	*	*	X	X
(3)	Dredging.	X	X	X	X
(4)	(i) Operation and management contracts of certain Government or privately owned facilities used for Government purposes, including Federally Funded Research and Development Centers.	X		X	
	(ii) Operation of all Department of Defense, Department of Energy, or the National Aeronautics and Space Administration facilities; and all Government-owned research and development facilities or Government-owned environmental laboratories.	**	X	**	X
(5)	Research and development.	X	X	X	X
(6)	Transportation services (including launching services, but not including travel agent services).	X	X	X	X
(7)	Utility services.	X	X	X	X
(8)	Maintenance, repair, modification, rebuilding and installation of equipment related to ships (J019).		X		X
(9)	Nonnuclear ship repair (J998).		X		X

\* Note 1. Acquisitions of the services listed at (2)(iii) of this table are a subset of the excluded services at (2)(i) and (ii), and are therefore not covered under the WTO GPA.

\*\* Note 2. Acquisitions of the services listed at (4)(ii) of this table are a subset of the excluded services at (4)(i), and are therefore not covered under the WTO GPA.



**28.000 Scope of part.**

This part prescribes requirements for obtaining financial protection against losses under contracts that result from the use of the sealed bid or negotiated methods. It covers bid guarantees, bonds, alternative payment protections, security for bonds, and insurance.

**28.001 Definitions.**

As used in this part—

“Attorney-in-fact” means an agent, independent agent, underwriter, or any other company or individual holding a power of attorney granted by a surety (see also “power of attorney” at [2.101](#)).

“Bid” means any response to a solicitation, including a proposal under a negotiated acquisition. See the definition of “offer” at [2.101](#).

“Bid guarantee” means a form of security assuring that the bidder—

(1) Will not withdraw a bid within the period specified for acceptance; and

(2) Will execute a written contract and furnish required bonds, including any necessary coinsurance or reinsurance agreements, within the time specified in the bid, unless a longer time allowed, after receipt of the specified forms.

“Bidder” means any entity that is responding or has responded to a solicitation, including an offeror under a negotiated acquisition.

“Bond” means a written instrument executed by a bidder or contractor (the “principal”), and a second party (the “surety” or “sureties”) (except as provided in [28.204](#)), to assure fulfillment of the principal’s obligations to a third party (the “obligee” or “Government”), identified in the bond. If the principal’s obligations are not met, the bond assures payment, to the extent stipulated, of any loss sustained by the obligee. The types of bonds and related documents are as follows:

(1) An advance payment bond secures fulfillment of the contractor’s obligations under an advance payment provision.

(2) An annual bid bond is a single bond furnished by a bidder, in lieu of separate bonds, which secure all bids (on other than construction contracts) requiring bonds submitted during a specific Government fiscal year.

(3) An annual performance bond is a single bond furnished by a contractor, in lieu of separate performance bonds, to secure fulfillment of the contractor’s obligations under contracts (other than construction contracts) requiring bonds entered into during a specific Government fiscal year.

(4) A patent infringement bond secures fulfillment of the contractor’s obligations under a patent provision.

(5) A payment bond assures payments as required by law to all persons supplying labor or material in the prosecution of the work provided for in the contract.

(6) A performance bond secures performance and fulfillment of the contractor’s obligations under the contract.

“Consent of surety” means an acknowledgment by a surety that its bond given in connection with a contract continues to apply to the contract as modified.

“Penal sum” or “penal amount” means the amount of money specified in a bond (or a percentage of the bid price in a bid bond) as the maximum payment for which the surety is obligated or the amount of security required to be pledged to the Government in lieu of a corporate or individual surety for the bond.

“Reinsurance” means a transaction which provides that a surety, for a consideration, agrees to indemnify another surety against loss which the latter may sustain under a bond which it has issued.

**Subpart 28.1—Bonds and Other Financial Protections****28.100 Scope of subpart.**

This subpart prescribes requirements and procedures for the use of bonds, alternative payment protections, and all types of bid guarantees.

**28.101 Bid guarantees.****28.101-1 Policy on use.**

(a) A contracting officer shall not require a bid guarantee unless a performance bond or a performance and payment bond is also required (see [28.102](#) and [28.103](#)). Except as provided in paragraph (c) of this subsection, bid guarantees shall be required whenever a performance bond or a performance and payment bond is required.

(b) All types of bid guarantees are acceptable for supply or service contracts (see annual bid bonds and annual performance bonds coverage in [28.001](#)). Only separate bid guarantees are acceptable in connection with construction contracts. Agencies may specify that only separate bid bonds are acceptable in connection with construction contracts.

(c) The chief of the contracting office may waive the requirement to obtain a bid guarantee when a performance bond or a performance and payment bond is required if it is determined that a bid guarantee is not in the best interest of the Government for a specific acquisition (*e.g.*, overseas construction, emergency acquisitions, sole-source contracts). Class waivers may be authorized by the agency head or designee.

**28.101-2 Solicitation provision or contract clause.**

(a) The contracting officer shall insert a provision or clause substantially the same as the provision at [52.228-1](#), Bid Guarantee, in solicitations or contracts that require a bid guarantee or similar guarantee. For example, the contracting officer may modify this provision—

(1) To set a period of time that is other than 10 days for the return of executed bonds;

(2) For use in connection with construction solicitations when the agency has specified that only separate bid bonds are acceptable in accordance with [28.101-1\(b\)](#);

(3) For use in solicitations for negotiated contracts; or

(4) For use in service contracts containing options for extended performance.

(b) The contracting officer shall determine the amount of the bid guarantee for insertion in the provision at [52.228-1](#) (see [28.102-2\(a\)](#)). The amount shall be adequate to protect the Government from loss should the successful bidder fail to execute further contractual documents and bonds as required. The bid guarantee amount shall be at least 20 percent of the bid price but shall not exceed \$3 million. When the penal sum is expressed as a percentage, a maximum dollar limitation may be stated.

### **28.101-3 Authority of an attorney-in-fact for a bid bond.**

(a) Any person signing a bid bond as an attorney-in-fact shall include with the bid bond evidence of authority to bind the surety.

(b) An original, or a photocopy or facsimile of an original, power of attorney is sufficient evidence of such authority.

(c) For purposes of this section, electronic, mechanically-applied and printed signatures, seals and dates on the power of attorney shall be considered original signatures, seals and dates, without regard to the order in which they were affixed.

(d) The contracting officer shall—

(1) Treat the failure to provide a signed and dated power of attorney at the time of bid opening as a matter of responsibility; and

(2) Treat questions regarding the authenticity and enforceability of the power of attorney at the time of bid opening as a matter of responsibility. These questions are handled after bid opening.

(e)(1) If the contracting officer contacts the surety to validate the power of attorney, the contracting officer shall document the file providing, at a minimum, the following information:

(i) Name of person contacted.

(ii) Date and time of contact.

(iii) Response of the surety.

(2) If, upon investigation, the surety declares the power of attorney to have been valid at the time of bid opening, the contracting officer may require correction of any technical error.

(3) If the surety declares the power of attorney to have been invalid, the contracting officer shall not allow the bidder to substitute a replacement power of attorney or a replacement surety.

(f) Determinations of non-responsibility based on the unacceptability of a power of attorney are not subject to the

Certificate of Competency process of subpart 19.6 if the surety has disavowed the validity of the power of attorney.

### **28.101-4 Noncompliance with bid guarantee requirements.**

(a) In sealed bidding, noncompliance with a solicitation requirement for a bid guarantee requires rejection of the bid, except in the situations described in paragraph (c) of this subsection when the noncompliance shall be waived.

(b) In negotiation, noncompliance with a solicitation requirement for a bid guarantee requires rejection of an initial proposal as unacceptable, if a determination is made to award the contract based on initial proposals without discussion, except in the situations described in paragraph (c) of this subsection when noncompliance shall be waived. (See [15.306\(a\)\(2\)](#) for conditions regarding making awards based on initial proposals.) If the conditions for awarding based on initial proposals are not met, deficiencies in bid guarantees submitted by offerors determined to be in the competitive range shall be addressed during discussions and the offeror shall be given an opportunity to correct the deficiency.

(c) Noncompliance with a solicitation requirement for a bid guarantee shall be waived in the following circumstances unless the contracting officer determines in writing that acceptance of the bid would be detrimental to the Government's interest when—

(1) Only one offer is received. In this case, the contracting officer may require the furnishing of the bid guarantee before award;

(2) The amount of the bid guarantee submitted is less than required, but is equal to or greater than the difference between the offer price and the next higher acceptable offer;

(3) The amount of the bid guarantee submitted, although less than that required by the solicitation for the maximum quantity offered, is sufficient for a quantity for which the offeror is otherwise eligible for award. Any award to the offeror shall not exceed the quantity covered by the bid guarantee;

(4) The bid guarantee is received late, and late receipt is waived under [14.304](#);

(5) A bid guarantee becomes inadequate as a result of the correction of a mistake under [14.407](#) (but only if the bidder will increase the bid guarantee to the level required for the corrected bid);

(6) An otherwise acceptable bid bond was submitted with a signed offer, but the bid bond was not signed by the offeror;

(7) An otherwise acceptable bid bond is erroneously dated or bears no date at all; or

(8) A bid bond does not list the United States as obligee, but correctly identifies the offeror, the solicitation number,

and the name and location of the project involved, so long as it is acceptable in all other respects.

### 28.102 Performance and payment bonds and alternative payment protections for construction contracts.

#### 28.102-1 General.

(a) [40 U.S.C. chapter 31](#), subchapter III, Bonds (formerly known as the Miller Act), requires performance and payment bonds for any construction contract exceeding \$150,000, except that this requirement may be waived—

(1) By the contracting officer for as much of the work as is to be performed in a foreign country upon finding that it is impracticable for the contractor to furnish such bond; or

(2) As otherwise authorized by the Bonds statute or other law.

(b)(1) Pursuant to [40 U.S.C. 3132](#), for construction contracts greater than \$35,000, but not greater than \$150,000, the contracting officer shall select two or more of the following payment protections, giving particular consideration to inclusion of an irrevocable letter of credit as one of the selected alternatives:

(i) A payment bond.

(ii) An irrevocable letter of credit (ILC).

(iii) *A tripartite escrow agreement.* The prime contractor establishes an escrow account in a federally insured financial institution and enters into a tripartite escrow agreement with the financial institution, as escrow agent, and all of the suppliers of labor and material. The escrow agreement shall establish the terms of payment under the contract and of resolution of disputes among the parties. The Government makes payments to the contractor's escrow account, and the escrow agent distributes the payments in accordance with the agreement, or triggers the disputes resolution procedures if required.

(iv) *Certificates of deposit.* The contractor deposits certificates of deposit from a federally insured financial institution with the contracting officer, in an acceptable form, executable by the contracting officer.

(v) A deposit of the types of security listed in [28.204-1](#) and [28.204-2](#).

(2) The contractor shall submit to the Government one of the payment protections selected by the contracting officer.

(c) The contractor shall furnish all bonds or alternative payment protection, including any necessary reinsurance agreements, before receiving a notice to proceed with the work or being allowed to start work.

#### 28.102-2 Amount required.

(a) *Definition.* As used in this subsection—

“Original contract price” means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts,

the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) *Contracts exceeding \$150,000—* (1) *Performance bonds.* Unless the contracting officer determines that a lesser amount is adequate for the protection of the Government, the penal amount of performance bonds must equal—

(i) 100 percent of the original contract price; and

(ii) If the contract price increases, an additional amount equal to 100 percent of the increase.

(2) *Payment bonds.* (i) Unless the contracting officer makes a written determination supported by specific findings that a payment bond in this amount is impractical, the amount of the payment bond must equal—

(A) 100 percent of the original contract price; and

(B) If the contract price increases, an additional amount equal to 100 percent of the increase.

(ii) The amount of the payment bond must be no less than the amount of the performance bond.

(c) *Contracts exceeding \$35,000 but not exceeding \$150,000.* Unless the contracting officer determines that a lesser amount is adequate for the protection of the Government, the penal amount of the payment bond or the amount of alternative payment protection must equal—

(1) 100 percent of the original contract price; and

(2) If the contract price increases, an additional amount equal to 100 percent of the increase.

(d) *Securing additional payment protection.* If the contract price increases, the Government must secure any needed additional protection by directing the contractor to—

(1) Increase the penal sum of the existing bond;

(2) Obtain an additional bond; or

(3) Furnish additional alternative payment protection.

(e) *Reducing amounts.* The contracting officer may reduce the amount of security to support a bond, subject to the conditions of [28.203-5\(c\)](#) or [28.204\(b\)](#).

#### 28.102-3 Contract clauses.

(a) Insert a clause substantially the same as the clause at [52.228-15](#), Performance and Payment Bonds—Construction, in solicitations and contracts for construction that contain a requirement for performance and payment bonds if the resultant contract is expected to exceed \$150,000. The contracting officer may revise paragraphs (b)(1) and/or (b)(2) of the clause to establish a lower percentage in accordance with [28.102-2\(b\)](#). If the provision at [52.228-1](#) is not included in the solicitation, the contracting officer must set a period of time for return of executed bonds.

(b) Insert the clause at [52.228-13](#), Alternative Payment Protections, in solicitations and contracts for construction, when the estimated or actual value exceeds \$35,000 but does not exceed \$150,000. Complete the clause by specifying the payment protections selected (see [28.102-1\(b\)\(1\)](#)) and the

deadline for submission. The contracting officer may revise paragraph (b) of the clause to establish a lower percentage in accordance with [28.102-2\(c\)](#).

### **28.103 Performance and payment bonds for other than construction contracts.**

#### **28.103-1 General.**

(a) Generally, agencies shall not require performance and payment bonds for other than construction contracts. However, performance and payment bonds may be used as permitted in [28.103-2](#) and [28.103-3](#).

(b) The contractor shall furnish all bonds before receiving a notice to proceed with the work.

(c) No bond shall be required after the contract has been awarded if it was not specifically required in the contract, except as may be determined necessary for a contract modification.

#### **28.103-2 Performance bonds.**

(a) Performance bonds may be required for contracts exceeding the simplified acquisition threshold when necessary to protect the Government's interest. The following situations may warrant a performance bond:

(1) Government property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

(2) A contractor sells assets to or merges with another concern, and the Government, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

(3) Substantial progress payments are made before delivery of end items starts.

(4) Contracts are for dismantling, demolition, or removal of improvements.

(b) The Government may require additional performance bond protection when a contract price is increased.

(c) The contracting officer must determine the contractor's responsibility (see [Subpart 9.1](#)) even though a bond has been or can be obtained.

#### **28.103-3 Payment bonds.**

(a) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the Government's interest.

(b) When a contract price is increased, the Government may require additional bond protection in an amount adequate to protect suppliers of labor and material.

#### **28.103-4 Contract clause.**

The contracting officer shall insert a clause substantially the same as the clause at [52.228-16](#), Performance and Payment Bonds—Other than Construction, in solicitations and

contracts that contain a requirement for both payment and performance bonds. The contracting officer shall determine the amount of each bond for insertion in the clause. The amount shall be adequate to protect the interest of the Government. The contracting officer shall also set a period of time (normally 10 days) for return of executed bonds. Alternate I shall be used when only performance bonds are required.

#### **28.104 Annual performance bonds.**

(a) Annual performance bonds only apply to nonconstruction contracts. They shall provide a gross penal sum applicable to the total amount of all covered contracts.

(b) When the penal sums obligated by contracts are approximately equal to or exceed the penal sum of the annual performance bond, an additional bond will be required to cover additional contracts.

#### **28.105 Other types of bonds.**

The head of the contracting activity may approve using other types of bonds in connection with acquiring particular supplies or services. These types include advance payment bonds and patent infringement bonds.

##### **28.105-1 Advance payment bonds.**

Advance payment bonds may be required only when the contract contains an advance payment provision and a performance bond is not furnished. The contracting officer shall determine the amount of the advance payment bond necessary to protect the Government.

##### **28.105-2 Patent infringement bonds.**

(a) Contracts providing for patent indemnity may require these bonds only if—

(1) A performance bond is not furnished; and

(2) The financial responsibility of the contractor is unknown or doubtful.

(b) The contracting officer shall determine the penal sum.

#### **28.106 Administration.**

##### **28.106-1 Bonds and bond-related forms.**

The following Standard Forms (SF's) and Optional Forms (OF's) shown in [53.301](#) and [53.302](#), shall be used, except in foreign countries, when a bid bond, performance or payment bond, or an individual surety is required. The bond forms shall be used as indicated in the instruction portion of each form:

(a) [SF 24](#), Bid Bond (see [28.101](#)).

(b) [SF 25](#), Performance Bond (see [28.102-1](#) and [28.106-3\(b\)](#)).

(c) [SF 25A](#), Payment Bond (see [28.102-1](#) and [28.106-3\(b\)](#)).

(d) [SF 25B](#), Continuation Sheet (for SF's [24](#), [25](#), and [25A](#)).

(e) [SF 28](#), Affidavit of Individual Surety (see [28.203](#)).

- (f) [SF 34](#), Annual Bid Bond (see [28.001](#)).
- (g) [SF 35](#), Annual Performance Bond (see [28.104](#)).
- (h) [SF 273](#), Reinsurance Agreement for a Bonds Statute Performance Bond (see [28.202\(a\)\(4\)](#)).
- (i) [SF 274](#), Reinsurance Agreement for a Bonds Statute Payment Bond (see [28.202\(a\)\(4\)](#)).
- (j) [SF 275](#), Reinsurance Agreement in Favor of the United States (see [28.202\(a\)\(4\)](#)).
- (k) [SF 1414](#), Consent of Surety (see [28.106-5](#)).
- (l) [SF 1415](#), Consent of Surety and Increase of Penalty (see [28.106-3](#)).
- (m) [SF 1416](#), Payment Bond for Other Than Construction Contracts (see [28.103-3](#) and [28.106-3\(b\)](#)).
- (n) [SF 1418](#), Performance Bond for Other Than Construction Contracts (see [28.103-2](#) and [28.106-3\(b\)](#)).
- (o) [OF 90](#), Release of Lien on Real Property (see [28.203-5](#)).
- (p) [OF 91](#), Release of Personal Property from Escrow (see [28.203-5](#)).

#### 28.106-2 Substitution of surety bonds.

- (a) A new surety bond covering all or part of the obligations on a bond previously approved may be substituted for the original bond if approved by the head of the contracting activity, or as otherwise specified in agency regulation.
- (b) When a new surety bond is approved, the contracting officer shall notify the principal and surety of the original bond of the effective date of the new bond.

#### 28.106-3 Additional bond and security.

- (a) When additional bond coverage is required and is secured in whole or in part by the original surety or sureties, agencies shall use [Standard Form 1415](#), Consent of Surety and Increase of Penalty. [Standard Form 1415](#) is authorized for local reproduction, and a copy of the form is furnished for this purpose in [Part 53](#) of the looseleaf edition of the FAR.
- (b) When additional bond coverage is required and is secured in whole or in part by a new surety or by one of the alternatives described in [28.204](#) in lieu of corporate or individual surety, agencies shall use [Standard Form 25](#), Performance Bond; [Standard Form 1418](#), Performance Bond for Other Than Construction Contracts; [Standard Form 25A](#), Payment Bond; or [Standard Form 1416](#), Payment Bond for Other Than Construction Contracts.

#### 28.106-4 Contract clause.

- (a) The contracting officer shall insert the clause at [52.228-2](#), Additional Bond Security, in solicitations and contracts when bonds are required.
- (b) In accordance with Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355 ([10 U.S.C. 2302 note](#)), the contracting officer shall insert the clause at [52.228-12](#), Prospective Subcon-

tractor Requests for Bonds, in solicitations and contracts with respect to which a payment bond will be furnished pursuant to [40 U.S.C. chapter 31](#), subchapter III, Bonds (see [28.102-1](#)), except for contracts for the acquisition of commercial items as defined in [Subpart 2.1](#).

#### 28.106-5 Consent of surety.

- (a) When any contract is modified, the contracting officer shall obtain the consent of surety if—
  - (1) An additional bond is obtained from other than the original surety;
  - (2) No additional bond is required and—
    - (i) The modification is for new work beyond the scope of the original contract; or
    - (ii) The modification does not change the contract scope but changes the contract price (upward or downward) by more than 25 percent or \$50,000; or
  - (3) Consent of surety is required for a novation agreement (see [Subpart 42.12](#)).

(b) When a contract for which performance or payment is secured by any of the types of security listed in [28.204](#) is modified as described in paragraph (a) of this subsection, no consent of surety is required.

(c) Agencies shall use [Standard Form 1414](#), Consent of Surety, for all types of contracts.

#### 28.106-6 Furnishing information.

- (a) The surety on the bond, upon its written request, may be furnished information on the progress of the work, payments, and the estimated percentage of completion, concerning the contract for which the bond was furnished.
- (b) When a payment bond has been provided, the contracting officer shall, upon request, furnish the name and address of the surety or sureties to any subcontractor or supplier who has furnished or been requested to furnish labor or material for the contract. In addition, general information concerning the work progress, payments, and the estimated percentage of completion may be furnished to persons who have provided labor or materials and have not been paid.
- (c) When a payment bond has been provided for a contract, the head of the agency or designee shall furnish a certified copy of the bond and the contract for which it was given to any person who makes a request therefor and who furnishes an affidavit that the requestor has supplied labor or materials for such work and payment therefor has not been made or that the requestor is being sued on such bond. The person who makes the request shall be required to pay such costs of preparation as determined by the head of the agency or designee to be reasonable and appropriate (see [40 U.S.C. 3133](#)).
- (d) Section 806(a)(2) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355 ([10 U.S.C. 2302 note](#)), requires that the Federal Government provide information to subcontractors on payment bonds under contracts for

other than commercial items as defined in [Subpart 2.1](#). Upon the written or oral request of a subcontractor/supplier, or prospective subcontractor/supplier, under a contract with respect to which a payment bond has been furnished pursuant to the Bonds statute, the contracting officer shall promptly provide to the requester, either orally or in writing, as appropriate, any of the following:

- (1) Name and address of the surety or sureties on the payment bond.
- (2) Penal amount of the payment bond.
- (3) Copy of the payment bond. The contracting officer may impose reasonable fees to cover the cost of copying and providing a copy of the payment bond.

#### **28.106-7 Withholding contract payments.**

(a) During contract performance, agencies shall not withhold payments due contractors or assignees because subcontractors or suppliers have not been paid.

(b) If, after completion of the contract work, the Government receives written notice from the surety regarding the contractor's failure to meet its obligation to its subcontractors or suppliers, the contracting officer shall withhold final payment. However, the surety must agree to hold the Government harmless from any liability resulting from withholding the final payment. The contracting officer will authorize final payment upon agreement between the contractor and surety or upon a judicial determination of the rights of the parties.

(c) For any withholding incident to the labor standards provisions of the contract, see [Part 22](#).

#### **28.106-8 Payment to subcontractors or suppliers.**

The contracting officer will only authorize payment to subcontractors or suppliers from an ILC (or any other cash equivalent security) upon a judicial determination of the rights of the parties, a signed notarized statement by the contractor that the payment is due and owed, or a signed agreement between the parties as to amount due and owed.

## Subpart 43.2—Change Orders

### 43.201 General.

(a) Generally, Government contracts contain a changes clause that permits the contracting officer to make unilateral changes, in designated areas, within the general scope of the contract. These are accomplished by issuing written change orders on [Standard Form 30](#), Amendment of Solicitation/Modification of Contract ([SF 30](#)), unless otherwise provided (see [43.301](#)).

(b) The contractor must continue performance of the contract as changed, except that in cost-reimbursement or incrementally funded contracts the contractor is not obligated to continue performance or incur costs beyond the limits established in the Limitation of Cost or Limitation of Funds clause (see [32.706-2](#)).

(c) The contracting officer may issue a change order by electronic means without a [SF 30](#) under unusual or urgent circumstances, *provided* that the message contains substantially the information required by the [SF 30](#) and immediate action is taken to issue the [SF 30](#).

### 43.202 Authority to issue change orders.

Change orders shall be issued by the contracting officer except when authority is delegated to an administrative contracting officer (see [42.202\(c\)](#)).

### 43.203 Change order accounting procedures.

(a) Contractors' accounting systems are seldom designed to segregate the costs of performing changed work. Therefore, before prospective contractors submit offers, the contracting officer should advise them of the possible need to revise their accounting procedures to comply with the cost segregation requirements of the Change Order Accounting clause at [52.243-6](#).

(b) The following categories of direct costs normally are segregable and accountable under the terms of the Change Order Accounting clause:

- (1) Nonrecurring costs (*e.g.*, engineering costs and costs of obsolete or reperformed work).
- (2) Costs of added distinct work caused by the change order (*e.g.*, new subcontract work, new prototypes, or new retrofit or backfit kits).
- (3) Costs of recurring work (*e.g.*, labor and material costs).

### 43.204 Administration.

(a) *Change order documentation.* When change orders are not forward priced, they require two documents: the change order and a supplemental agreement reflecting the resulting equitable adjustment in contract terms. If an equitable adjustment in the contract price or delivery terms or both can be

agreed upon in advance, only a supplemental agreement need be issued, but administrative changes and changes issued pursuant to a clause giving the Government a unilateral right to make a change (*e.g.*, an option clause) initially require only one document.

(b) *Definitization.* (1) Contracting officers shall negotiate equitable adjustments resulting from change orders in the shortest practicable time.

(2) Administrative contracting officers negotiating equitable adjustments by delegation under [42.302\(b\)\(1\)](#), shall obtain the contracting officer's concurrence before adjusting the contract delivery schedule.

(3) Contracting offices and contract administration offices, as appropriate, shall establish suspense systems adequate to ensure accurate identification and prompt definitization of unpriced change orders.

(4) The contracting officer shall ensure that a cost analysis is made, if appropriate, under [15.404-1\(c\)](#) and shall consider the contractor's segregable costs of the change, if available. If additional funds are required as a result of the change, the contracting officer shall secure the funds before making any adjustment to the contract.

(5) When the contracting officer requires a field pricing review of requests for equitable adjustment, the contracting officer shall provide a list of any significant contract events which may aid in the analysis of the request. This list should include—

- (i) Date and dollar amount of contract award and/or modification;
- (ii) Date of submission of initial contract proposal and dollar amount;
- (iii) Date of alleged delays or disruptions;
- (iv) Performance dates as scheduled at date of award and/or modification;
- (v) Actual performance dates;
- (vi) Date entitlement to an equitable adjustment was determined or contracting officer decision was rendered if applicable;
- (vii) Date of certification of the request for adjustment if certification is required; and
- (viii) Dates of any pertinent Government actions or other key events during contract performance which may have an impact on the contractor's request for equitable adjustment.

(c) *Complete and final equitable adjustments.* To avoid subsequent controversies that may result from a supplemental agreement containing an equitable adjustment as the result of a change order, the contracting officer should—

- (1) Ensure that all elements of the equitable adjustment have been presented and resolved; and
- (2) Include, in the supplemental agreement, a release similar to the following:

CONTRACTOR'S STATEMENT OF RELEASE

In consideration of the modification(s) agreed to herein as complete equitable adjustments for the Contractor's \_\_\_\_\_ (describe) \_\_\_\_\_ "proposal(s) for adjustment," the Contractor hereby releases the Government from any and all liability under this contract for further equitable adjustments attributable to such facts or circumstances giving rise to the "proposal(s) for adjustment" (except for \_\_\_\_\_).

#### 43.205 Contract clauses.

(a)(1) The contracting officer shall insert the clause at [52.243-1](#), Changes—Fixed-Price, in solicitations and contracts when a fixed-price contract for supplies is contemplated.

(2) If the requirement is for services, other than architect-engineer or other professional services, and no supplies are to be furnished, the contracting officer shall use the clause with its Alternate I.

(3) If the requirement is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished, the contracting officer shall use the clause with its Alternate II.

(4) If the requirement is for architect-engineer or other professional services, the contracting officer shall use the clause with its Alternate III.

(5) If the requirement is for transportation services, the contracting officer shall use the clause with its Alternate IV.

(6) If it is desired to include the clause in solicitations and contracts when a research and development contract is contemplated, the contracting officer shall use the clause with its Alternate V.

(b)(1) The contracting officer shall insert the clause at [52.243-2](#), Changes—Cost-Reimbursement, in solicitations and contracts when a cost-reimbursement contract for supplies is contemplated.

(2) If the requirement is for services and no supplies are to be furnished, the contracting officer shall use the clause with its Alternate I.

(3) If the requirement is for services and supplies are to be furnished, the contracting officer shall use the clause with its Alternate II.

(4) If the requirement is for construction, the contracting officer shall use the clause with its Alternate III.

(5) [Reserved]

(6) If it is desired to include the clause in solicitations and contracts when a research and development contract is contemplated, the contracting officer shall use the clause with its Alternate V.

(c) Insert the clause at [52.243-3](#), Changes—Time-and-Materials or Labor-Hours, in solicitations and contracts when a time-and-materials or labor-hour contract is contemplated. The contracting officer may vary the 30-day period in paragraph (c) of the clause according to agency procedures.

(d) The contracting officer shall insert the clause at [52.243-4](#), Changes, in solicitations and contracts for—

(1) Dismantling, demolition, or removal of improvements; and

(2) Construction, when a fixed-price contract is contemplated and the contract amount is expected to exceed the simplified acquisition threshold.

(e) The contracting officer shall insert the clause at [52.243-5](#), Changes and Changed Conditions, in solicitations and contracts for construction, when the contract amount is not expected to exceed the simplified acquisition threshold.

(f) The contracting officer may insert a clause, substantially the same as the clause at [52.243-6](#), Change Order Accounting, in solicitations and contracts for supply and research and development contracts of significant technical complexity, if numerous changes are anticipated. The clause may be included in solicitations and contracts for construction if deemed appropriate by the contracting officer.



(4) When the delivery term is “c.i.f. (cost, insurance, freight) destination,” the required data shall include—

(i) The same as specified in [47.305-6\(a\)\(3\)](#); and

(ii) The amount and type of marine insurance coverage; *e.g.*, whether the coverage is “With Average” or “Free of Particular Average” and whether it covers any special risks or excludes any of the usual risks associated with the specific commodity involved.

(5) When the delivery term is “f.o.b. designated air carrier’s terminal, point of exportation,” the required data shall include—

(i) A delivery schedule number of units, type of package, and individual weight and dimensions of each package;

(ii) Minimum leadtime required to make supplies available for loading into aircraft;

(iii) Name of airport and location to which shipment will be delivered; and

(iv) Other data appropriate to shipment by air carrier.

(b) When supplies are acquired for known destinations outside CONUS and originate within CONUS, the contracting officer shall, for transportation evaluation purposes, note in the solicitation the CONUS port of loading or point of exit (aerial or water) and the water port of debarkation that serves the overseas destination.

(c) The contracting officer may also, for evaluation purposes, list in the solicitation other CONUS ports that meet the eligibility criteria compatible with the nature and quantity of the supplies, their destination, type of carrier required, and specified overseas delivery dates. This permits offerors that are geographically remote from the port that normally serves the overseas destination to be competitive as far as transportation costs are concerned.

(d) Unless logistics requirements limit the ports of loading to the ports listed in the solicitation, the solicitation shall state that—

(1) Offerors may nominate additional ports (including ports in Alaska and Hawaii) more favorably located to their shipping points; and

(2) These ports will be considered in the evaluation of offers if they possess all requisite capabilities of the listed ports in relation to the supplies being acquired.

(e) When supplies are to be exported through CONUS ports and offers are solicited on an f.o.b. origin or f.o.b. destination basis, the contracting officer shall insert in solicitations the provision at [52.247-51](#), Evaluation of Export Offers. The contracting officer shall use the provision with its—

(1) Alternate I, when the CONUS ports of export are DoD water terminals;

(2) Alternate II, when offers are solicited on an f.o. b. origin only basis; or

(3) Alternate III, when offers are solicited on an f.o.b. destination only basis.

(f)(1) When the supplies are to move in the Defense Transportation System (DTS) (see [47.301-3](#)), the contract shall specify that—

(i) A Transportation Control Movement Document (TCMD) must be dispatched to the appropriate DoD air or water clearance authority in accordance with DoD 4500.9-R, Defense Transportation Regulation, Part II, procedures for all shipments consigned to DoD air or water terminal transshipment points; and

(ii) An Export Release must be obtained for supplies to be transshipped via a water port of loading to overseas destinations, except for shipments for which an Export Release is not required, generally shipments of less than 10,000 pounds, (see DoD 4500.9-R, Defense Transportation Regulation, Part II).

(2) When shipments will be consigned to DoD air or water terminal transshipment points, the contracting officer shall insert in solicitations and contracts the clause at [52.247-52](#), Clearance and Documentation Requirements—Shipments to DoD Air or Water Terminal Transshipment Points.

(g) When a contract will not generate any shipments that require an Export Release, only the DoD CONUS ports that serve the overseas destination shall be listed in the solicitation, except that the responsible contracting officer may limit the water ports listed when such limitation is considered necessary to meet delivery or other requirements.

(h) The award shall specify the United States ports of loading that afford the lowest overall cost to the overseas destination.

(i) When supplies will be from origins outside CONUS to destinations either within or outside CONUS, the contracting officer shall use the appropriate f.o.b. term and include evaluation-of-offers information.

(j) In furtherance of the Cargo Preference Act of 1954 ([46 U.S.C. 1241\(b\)](#)), to encourage and foster the American Merchant Marine, the port of delivery of supplies originating outside the United States and shipped by ocean vessel shall be based on the availability of United States-flag vessels between the ports involved, unless the acquiring activity has given other specific instructions. (See [Subpart 47.5](#)—Ocean Transportation by U.S.-Flag Vessels.)

(k) For application of the Fly America Act to the transportation of supplies and personnel when the Government is responsible for the transportation costs, see [Subpart 47.4](#)—Air Transportation by U.S.-Flag Carriers.

(l) Military and civilian agencies shall obtain assistance from transportation offices in connection with all export shipments (see [47.105](#)).

**47.305-7 Quantity analysis, direct delivery, and reduction of crosshauling and backhauling.**

(a) *Quantity analysis.* (1) The requiring activity shall consider the acquisition of carload or truckload quantities.

(2) When additional quantities of the supplies being acquired can be transported at lower unit transportation costs or with a relatively small increase in total transportation costs, with no impairment to the program schedule, the contracting officer shall ascertain from the requiring activity whether there is a known requirement for additional quantities. This may be the case, for example, when the additional quantity could profitably be stored by the activity for future use, or could be distributed advantageously to several using activities on the same transportation route or in the same geographical area.

(b) *Direct delivery.* When it is the usual practice of a requiring activity to acquire supplies in large quantities for shipment to a central point and subsequent distribution to using activities, as needed, consideration shall be given, if sufficient quantities are involved to warrant scheduling direct delivery, to the feasibility of providing for direct delivery from the contractor to the using activity, thereby reducing the cost of transportation and handling.

(c) *Crosshauling and backhauling.* The contracting officer shall select distribution and transshipment facilities intermediate to origins and ultimate destinations to reduce crosshauling and backhauling; *i.e.*, to the transportation of personal property of the same kind in opposite directions or the return of the property to or through areas previously traversed in shipment.

**47.305-8 Consolidation of small shipments and the use of stopoff privileges.**

(a) *Consolidation of small shipments.* Consolidation of small shipments into larger lots frequently results in lower transportation costs. Therefore, the contracting officer, after consultation with the transportation office and the activity requiring the supplies, may revise the delivery schedules to provide for deliveries in larger quantities.

(b) *Stopping for partial unloading.* When feasible, schedules for delivery of supplies to multiple destinations shall be consolidated and the stopoff privileges permitted under carrier tariffs shall be used for partial unloading at one or more points directly en route between the point of origin and the last destination.

**47.305-9 Commodity description and freight classification.**

(a) Generally, the freight rate for supplies is based on the rating applicable to the freight classification description published in the National Motor Freight Classification (NMFC) (for carriers) and the Uniform Freight Classification (UFC) (for rail) filed with Federal and State regulatory bodies. There-

fore, the contracting officer shall show in the solicitation a complete description of the commodity to be acquired and of packing requirements to determine proper transportation charges for the evaluation of offers. If supplies cannot be properly classified through reference to freight classification tariffs or if doubt exists, the contracting officer shall obtain the applicable freight classification from the transportation office. In some situations prospective contractors have established an official freight classification description that can be applied.

(b)(1) When the supplies being acquired are new to the supply system, nonstandard, or modifications of previously shipped items, and different freight classifications may apply, the contracting officer shall insert in solicitations the provision at [52.247-53](#), Freight Classification Description.

(2) The contracting officer shall alert the transportation officer to the possibility of negotiations for appropriate freight classification ratings and reasonable transportation rates.

(c) The solicitation shall contain adequate descriptions of explosives and other dangerous supplies according to—

(1) The regular freight classification; and

(2) The hazardous material description and hazard class as shown in 49 CFR 172.101.

(d) The contracting officer shall furnish the freight classification information developed in [47.305-9\(a\)](#), (b), and (c) of this section to the contract administration office.

**47.305-10 Packing, marking, and consignment instructions.**

(a) Acquisition documents shall include packing and marking requirements necessary to prevent deterioration of supplies and damages due to the hazards of shipping, handling, and storage, and, when appropriate, marking in accordance with the requirements of 49 CFR 172.300.

(b) Contracts shall include complete consignment and marking instructions at the time the contract is awarded to ensure that supplies are delivered to proper destinations without delay. If complete consignment information is not initially known, the contracting officer shall issue amended delivery instructions under the Changes clause of the contract (see [43.205](#)) as soon as the information becomes known.

(c) If necessary to meet required delivery schedules, the contracting officer may issue instructions by telephone or electronic means. The contracting officer shall confirm telephonic instructions in writing, and confirm electronic instructions if the contracting officer did not receive confirmation of receipt.

(d) Marking and consignment instructions for military shipments shall conform to the current issue of MIL-STD-129 (Military Standard Marking for Shipment and Storage) and other applicable DoD regulations. Shipments for civilian agencies shall be marked as specified in Federal Standard 123, Marking for Domestic Shipment (Civil Agencies).

## PART 49—TERMINATION OF CONTRACTS

Sec.

- 49.000 Scope of part.
  - 49.001 Definitions.
  - 49.002 Applicability.
- Subpart 49.1—General Principles**
- 49.100 Scope of subpart.
  - 49.101 Authorities and responsibilities.
  - 49.102 Notice of termination.
  - 49.103 Methods of settlement.
  - 49.104 Duties of prime contractor after receipt of notice of termination.
  - 49.105 Duties of termination contracting officer after issuance of notice of termination.
  - 49.105-1 Termination status reports.
  - 49.105-2 Release of excess funds.
  - 49.105-3 Termination case file.
  - 49.105-4 Cleanup of construction site.
  - 49.106 Fraud or other criminal conduct.
  - 49.107 Audit of prime contract settlement proposals and subcontract settlements.
  - 49.108 Settlement of subcontract settlement proposals.
  - 49.108-1 Subcontractor’s rights.
  - 49.108-2 Prime contractor’s rights and obligations.
  - 49.108-3 Settlement procedure.
  - 49.108-4 Authorization for subcontract settlements without approval or ratification.
  - 49.108-5 Recognition of judgments and arbitration awards.
  - 49.108-6 Delay in settling subcontractor settlement proposals.
  - 49.108-7 Government assistance in settling subcontracts.
  - 49.108-8 Assignment of rights under subcontracts.
  - 49.109 Settlement agreements.
  - 49.109-1 General.
  - 49.109-2 Reservations.
  - 49.109-3 Government property.
  - 49.109-4 No-cost settlement.
  - 49.109-5 Partial settlements.
  - 49.109-6 Joint settlement of two or more settlement proposals.
  - 49.109-7 Settlement by determination.
  - 49.110 Settlement negotiation memorandum.
  - 49.111 Review of proposed settlements.
  - 49.112 Payment.
  - 49.112-1 Partial payments.
  - 49.112-2 Final payment.
  - 49.113 Cost principles.
  - 49.114 Unsettled contract changes.
  - 49.115 Settlement of terminated incentive contracts.
- Subpart 49.2—Additional Principles for Fixed-Price Contracts Terminated for Convenience**
- 49.201 General.
  - 49.202 Profit.
  - 49.203 Adjustment for loss.
  - 49.204 Deductions.
  - 49.205 Completed end items.
  - 49.206 Settlement proposals.
  - 49.206-1 Submission of settlement proposals.
  - 49.206-2 Bases for settlement proposals.
  - 49.206-3 Submission of inventory disposal schedules.
  - 49.207 Limitation on settlements.
  - 49.208 Equitable adjustment after partial termination.
- Subpart 49.3—Additional Principles for Cost-Reimbursement Contracts Terminated for Convenience**
- 49.301 General.
  - 49.302 Discontinuance of vouchers.
  - 49.303 Procedure after discontinuing vouchers.
  - 49.303-1 Submission of settlement proposal.
  - 49.303-2 Submission of inventory disposal schedules.
  - 49.303-3 Audit of settlement proposal.
  - 49.303-4 Adjustment of indirect costs.
  - 49.303-5 Final settlement.
  - 49.304 Procedure for partial termination.
  - 49.304-1 General.
  - 49.304-2 Submission of settlement proposal (fee only).
  - 49.304-3 Submission of vouchers.
  - 49.305 Adjustment of fee.
  - 49.305-1 General.
  - 49.305-2 Construction contracts.
- Subpart 49.4—Termination for Default**
- 49.401 General.
  - 49.402 Termination of fixed-price contracts for default.
  - 49.402-1 The Government’s right.
  - 49.402-2 Effect of termination for default.
  - 49.402-3 Procedure for default.
  - 49.402-4 Procedure in lieu of termination for default.
  - 49.402-5 Memorandum by the contracting officer.
  - 49.402-6 Repurchase against contractor’s account.
  - 49.402-7 Other damages.
  - 49.402-8 Reporting Information.
  - 49.403 Termination of cost-reimbursement contracts for default.
  - 49.404 Surety-takeover agreements.
  - 49.405 Completion by another contractor.
  - 49.406 Liquidation of liability.
- Subpart 49.5—Contract Termination Clauses**
- 49.501 General.
  - 49.502 Termination for convenience of the Government.
  - 49.503 Termination for convenience of the Government and default.
  - 49.504 Termination of fixed-price contracts for default.

---

49.505	Other termination clauses.	49.603-4	Cost-reimbursement contracts—complete termination, with settlement limited to fee.
<b>Subpart 49.6—Contract Termination Forms and Formats</b>		49.603-5	Cost-reimbursement contracts—partial termination.
49.601	Notice of termination for convenience.	49.603-6	No-cost settlement agreement—complete termination.
49.601-1	Electronic notice.	49.603-7	No-cost settlement agreement—partial termination.
49.601-2	Letter notice.	49.603-8	Fixed-price contracts—settlements with subcontractors only.
49.602	Forms for settlement of terminated contracts.	49.603-9	Settlement of reservations.
49.602-1	Termination settlement proposal forms.	49.604	Release of excess funds under terminated contracts.
49.602-2	Inventory forms.	49.605	Request to settle subcontractor settlement proposals.
49.602-3	Schedule of accounting information.	49.606	Granting subcontract settlement authorization.
49.602-4	Partial payments.	49.607	Delinquency notices.
49.602-5	Settlement agreement.		
49.603	Formats for termination for convenience settlement agreements.		
49.603-1	Fixed price contracts—complete termination.		
49.603-2	Fixed-price contracts—partial termination.		
49.603-3	Cost reimbursement contracts—complete termination, if settlement includes cost.		

**49.000 Scope of part.**

This part establishes policies and procedures relating to the complete or partial termination of contracts for the convenience of the Government or for default. It prescribes contract clauses relating to termination and excusable delay and includes instructions for using termination and settlement forms.

**49.001 Definitions.**

As used in this part—

“Other work” means any current or scheduled work of the contractor, whether Government or commercial, other than work related to the terminated contract.

“Plant clearance period,” as used in this subpart, means the period beginning on the effective date of contract completion or termination and ending 90 days (or such longer period as may be agreed to) after receipt by the contracting officer of acceptable inventory schedules for each property classification. The final phase of the plant clearance period means that period after receipt of acceptable inventory schedules.

“Settlement agreement” means a written agreement in the form of a contract modification settling all or a severable portion of a settlement proposal.

“Settlement proposal” means a proposal for effecting settlement of a contract terminated in whole or in part, submitted by a contractor or subcontractor in the form, and supported by the data, required by this part. A settlement proposal is included within the generic meaning of the word “claim” under false claims acts (see [18 U.S.C. 287](#) and [31 U.S.C. 3729](#)).

“Unsettled contract change” means any contract change or contract term for which a definitive modification is required but has not been executed.

**49.002 Applicability.**

(a)(1) This part applies to contracts that provide for termination for the convenience of the Government or for the default of the contractor (see also [12.403](#) and [13.302-4](#)).

(2) This part does not apply to commercial item contracts awarded using part [12](#) procedures. See [12.403](#) for termination policies for contracts for the acquisition of commercial items. However, for contracts for the acquisition of commercial items, this part provides administrative guidance which may be followed unless it is inconsistent with the requirements and procedures in [12.403](#), Termination, and the clause at [52.212-4](#), Contract Terms and Conditions—Commercial Items.

(b) Contractors shall use this part, unless inappropriate, to settle subcontracts terminated as a result of modification of prime contracts. The contracting officer shall use this part as a guide in evaluating settlements of subcontracts terminated for the convenience of a contractor whenever the settlement will be the basis of a proposal for reimbursement from the Government under a cost-reimbursement contract.

(c) The contracting officer may use this part in determining an equitable adjustment resulting from a modification under

the Changes clause of any contract, except cost-reimbursement contracts.

(d) When action to be taken or authority to be exercised under this part depends upon the “amount” of the settlement proposal, that amount shall be determined by deducting from the gross settlement proposed the amounts payable for completed articles or work at the contract price and amounts for the settlement of subcontractor settlement proposals. Credits for retention or other disposal of termination inventory and amounts for advance or partial payments shall not be deducted.

**Subpart 49.1—General Principles****49.100 Scope of subpart.**

(a) This subpart deals with—

(1) The authority and responsibility of contracting officers to terminate contracts in whole or in part for the convenience of the Government or for default;

(2) Duties of the contractor and the contracting officer after issuance of the notice of termination;

(3) General procedures for the settlement of terminated contracts; and

(4) Settlement agreements.

(b) Additional principles applicable to the termination for convenience and settlement of fixed-price and cost-reimbursement contracts are included in [Subparts 49.2](#) and [49.3](#). Additional principles applicable to the termination of contracts for default are included in [Subpart 49.4](#).

**49.101 Authorities and responsibilities.**

(a) The termination clauses or other contract clauses authorize contracting officers to terminate contracts for convenience, or for default, and to enter into settlement agreements under this regulation.

(b) The contracting officer shall terminate contracts, whether for default or convenience, only when it is in the Government’s interest. The contracting officer shall effect a no-cost settlement instead of issuing a termination notice when—

(1) It is known that the contractor will accept one,

(2) Government property was not furnished, and

(3) There are no outstanding payments, debts due the Government, or other contractor obligations.

(c) When the price of the undelivered balance of the contract is less than \$5,000, the contract should not normally be terminated for convenience but should be permitted to run to completion.

(d) After the contracting officer issues a notice of termination, the termination contracting officer (TCO) is responsible for negotiating any settlement with the contractor, including a no-cost settlement if appropriate. Auditors and TCO’s shall promptly schedule and complete audit reviews and negotiations, giving particular attention to the need for timely action on all settlements involving small business concerns.

(e) If the same item is under contract with both large and small business concerns and it is necessary to terminate for

convenience part of the units still to be delivered, preference shall be given to the continuing performance of small business contracts over large business contracts unless the chief of the contracting office determines that this is not in the Government's interest.

(f) The contracting officer is responsible for the release of excess funds resulting from the termination unless this responsibility is specifically delegated to the TCO.

#### 49.102 Notice of termination.

(a) *General.* The contracting officer shall terminate contracts for convenience or default only by a written notice to the contractor (see [49.601](#)). The notice of termination may be expedited by means of electronic communication capable of providing confirmation of receipt by the contractor. When the notice is mailed, it shall be sent by certified mail, return receipt requested. When the contracting office arranges for hand delivery of the notice, a written acknowledgment shall be obtained from the contractor. The notice shall state—

- (1) That the contract is being terminated for the convenience of the Government (or for default) under the contract clause authorizing the termination;
- (2) The effective date of termination;
- (3) The extent of termination;
- (4) Any special instructions; and
- (5) The steps the contractor should take to minimize the impact on personnel if the termination, together with all other outstanding terminations, will result in a significant reduction in the contractor's work force (see paragraph (g) of the notice in [49.601-2](#)). If the termination notice is by telegram, include these "steps" in the confirming letter or modification.

(b) *Distribution of copies.* The contracting officer shall simultaneously send the termination notice to the contractor, and a copy to the contract administration office and to any known assignee, guarantor, or surety of the contractor.

(c) *Amendment of termination notice.* The contracting officer may amend a termination notice to—

- (1) Correct nonsubstantive mistakes in the notice;
- (2) Add supplemental data or instructions; or
- (3) Rescind the notice if it is determined that items terminated had been completed or shipped before the contractor's receipt of the notice.

(d) *Reinstatement of terminated contracts.* Upon written consent of the contractor, the contracting office may reinstate the terminated portion of a contract in whole or in part by amending the notice of termination if it has been determined in writing that—

- (1) Circumstances clearly indicate a requirement for the terminated items; and
- (2) Reinstatement is advantageous to the Government.

#### 49.103 Methods of settlement.

Settlement of terminated cost-reimbursement contracts and fixed-price contracts terminated for convenience may be effected by (a) negotiated agreement, (b) determination by the TCO, (c) costing-out under vouchers using [SF 1034](#), Public

Voucher for Purchases and Services Other Than Personal, for cost-reimbursement contracts (as prescribed in [Subpart 49.3](#)), or (d) a combination of these methods. When possible, the TCO should negotiate a fair and prompt settlement with the contractor. The TCO shall settle a settlement proposal by determination only when it cannot be settled by agreement.

#### 49.104 Duties of prime contractor after receipt of notice of termination.

After receipt of the notice of termination, the contractor shall comply with the notice and the termination clause of the contract, except as otherwise directed by the TCO. The notice and clause applicable to convenience terminations generally require that the contractor—

(a) Stop work immediately on the terminated portion of the contract and stop placing subcontracts thereunder;

(b) Terminate all subcontracts related to the terminated portion of the prime contract;

(c) Immediately advise the TCO of any special circumstances precluding the stoppage of work;

(d) Perform the continued portion of the contract and submit promptly any request for an equitable adjustment of price for the continued portion, supported by evidence of any increase in the cost, if the termination is partial;

(e) Take necessary or directed action to protect and preserve property in the contractor's possession in which the Government has or may acquire an interest and, as directed by the TCO, deliver the property to the Government;

(f) Promptly notify the TCO in writing of any legal proceedings growing out of any subcontract or other commitment related to the terminated portion of the contract;

(g) Settle outstanding liabilities and proposals arising out of termination of subcontracts, obtaining any approvals or ratifications required by the TCO;

(h) Promptly submit the contractor's own settlement proposal, supported by appropriate schedules; and

(i) Dispose of termination inventory, as directed or authorized by the TCO.

#### 49.105 Duties of termination contracting officer after issuance of notice of termination.

(a) Consistent with the termination clause and the notice of termination, the TCO shall—

- (1) Direct the action required of the prime contractor;
- (2) Examine the settlement proposal of the prime contractor and, when appropriate, the settlement proposals of subcontractors;

(3) Promptly negotiate settlement with the contractor and enter into a settlement agreement; and

(4) Promptly settle the contractor's settlement proposal by determination for the elements that cannot be agreed on, if unable to negotiate a complete settlement.

(b) To expedite settlement, the TCO may request specially qualified personnel to—

- (1) Assist in dealings with the contractor;
- (2) Advise on legal and contractual matters;
- (3) Conduct accounting reviews and advise and assist on accounting matters; and
- (4) Perform the following functions regarding termination inventory (see [Subpart 45.6](#)):
  - (i) Verify its existence.
  - (ii) Determine qualitative and quantitative allocability.
  - (iii) Make recommendations concerning serviceability.
  - (iv) Undertake necessary screening and redistribution.
  - (v) Assist the contractor in accomplishing other disposition.

(c) The TCO should promptly hold a conference with the contractor to develop a definite program for effecting the settlement. When appropriate in the judgment of the TCO, after consulting with the contractor, principal subcontractors should be requested to attend. Topics that should be discussed at the conference and documented include—

- (1) General principles relating to the settlement of any settlement proposal, including obligations of the contractor under the termination clause of the contract;
- (2) Extent of the termination, point at which work is stopped, and status of any plans, drawings, and information that would have been delivered had the contract been completed;
- (3) Status of any continuing work;
- (4) Obligation of the contractor to terminate subcontracts and general principles to be followed in settling subcontractor settlement proposals;
- (5) Names of subcontractors involved and the dates termination notices were issued to them;
- (6) Contractor personnel handling review and settlement of subcontractor settlement proposals and the methods being used;
- (7) Arrangements for transfer of title and delivery to the Government of any material required by the Government;
- (8) General principles and procedures to be followed in the protection, preservation, and disposition of the contractor's and subcontractors' termination inventories, including the preparation of termination inventory schedules;
- (9) Contractor accounting practices and preparation of [SF 1439](#) (Schedule of Accounting Information ([49.602-3](#)));
- (10) Form in which to submit settlement proposals;
- (11) Accounting review of settlement proposals;
- (12) Any requirement for interim financing in the nature of partial payments;
- (13) Tentative time schedule for negotiation of the settlement, including submission by the contractor and subcon-

tractors of settlement proposals, termination inventory schedules, and accounting information schedules (see [49.206-3](#) and [49.303-2](#));

(14) Actions taken by the contractor to minimize impact upon employees affected adversely by the termination (see paragraph (g) of the letter notice in [49.601-2](#)); and

(15) Obligation of the contractor to furnish accurate, complete, and current cost or pricing data, and to certify to that effect in accordance with [15.403-4](#)(a)(1) when the amount of a termination settlement agreement, or a partial termination settlement agreement plus the estimate to complete the continued portion of the contract exceeds the threshold in [15.403-4](#).

#### **49.105-1 Termination status reports.**

When the TCO and contracting officer are in different activities, the TCO will furnish periodic status reports on termination actions to the contracting office upon request. The contracting office shall specify the information required.

#### **49.105-2 Release of excess funds.**

(a) The TCO shall estimate the funds required to settle the termination, and within 30 days after the receipt of the termination notice, recommend the release of excess funds to the contracting officer. The initial deobligation of excess funds should be accomplished in a timely manner by the contracting officer, or the TCO, if delegated the responsibility. The TCO shall not recommend the release of amounts under \$1,000, unless requested by the contracting officer.

(b) The TCO shall maintain continuous surveillance of required funds to permit timely release of any additional excess funds (a recommended format for release of excess funds is in [49.604](#)). If previous releases of excess funds result in a shortage of the amount required for settlement, the TCO shall promptly inform the contracting officer, who shall reinstate the funds within 30 days.

#### **49.105-3 Termination case file.**

The TCO responsible for negotiating the final settlement shall establish a separate case file for each termination. This file will include memoranda and records of all actions relative to the settlement (see [4.801](#)).

#### **49.105-4 Cleanup of construction site.**

In the case of terminated construction contracts, the contracting officer shall direct action to ensure the cleanup of the site, protection of serviceable materials, removal of hazards, and other action necessary to leave a safe and healthful site.

#### **49.106 Fraud or other criminal conduct.**

If the TCO suspects fraud or other criminal conduct related to the settlement of a terminated contract, the TCO shall dis-

continue negotiations and report the facts under agency procedures.

#### **49.107 Audit of prime contract settlement proposals and subcontract settlements.**

(a) The TCO shall refer each prime contractor settlement proposal of \$100,000 or more to the appropriate audit agency for review and recommendations. The TCO may submit settlement proposals of less than \$100,000 to the audit agency. Referrals shall indicate any specific information or data that the TCO desires and shall include facts and circumstances that will assist the audit agency in performing its function. The audit agency shall develop requested information and may make any further accounting reviews it considers appropriate. After its review, the audit agency shall submit written comments and recommendations to the TCO. When a formal examination of settlement proposals under \$100,000 is not warranted, the TCO will perform or have performed a desk review and include a written summary of the review in the termination case file.

(b) The TCO shall refer subcontract settlements received for approval or ratification to the appropriate audit agency for review and recommendations when (1) the amount exceeds \$100,000 or (2) the TCO wants a complete or partial accounting review. The audit agency shall submit written comments and recommendations to the TCO. The review by the audit agency does not relieve the prime contractor or higher tier subcontractor of the responsibility for performing an accounting review.

(c)(1) The responsibility of the prime contractor and of each subcontractor (see [49.108](#)) includes performance of accounting reviews and any necessary field audits. However, the TCO should request the Government audit agency to perform the accounting review of a subcontractor's settlement proposal when—

(i) A subcontractor objects, for competitive reasons, to an accounting review of its records by an upper tier contractor;

(ii) The Government audit agency is currently performing audit work at the subcontractor's plant, or can perform the audit more economically or efficiently;

(iii) Audit by the Government is necessary for consistent audit treatment and orderly administration; or

(iv) The contractor has a substantial or controlling financial interest in the subcontractor.

(2) The audit agency should avoid duplication of accounting reviews performed by the upper tier contractor on subcontractor settlement proposals. However, this should not preclude the Government from making additional reviews when appropriate. When the contractor is performing accounting reviews according to this section, the TCO should request the audit agency to periodically examine the contrac-

tor's accounting review procedures and performance, and to make appropriate comments and recommendations to the TCO.

(d) The audit report is advisory only, and is for the TCO to use in negotiating a settlement or issuing a unilateral determination. Government personnel handling audit reports must be careful not to reveal privileged information or information that will jeopardize the negotiation position of the Government, the prime contractor, or a higher tier subcontractor. Consistent with this, and when in the Government's interest, the TCO may furnish audit reports under paragraph (c) of this section to prime and higher tier subcontractors for their use in settling subcontract settlement proposals.

#### **49.108 Settlement of subcontract settlement proposals.**

##### **49.108-1 Subcontractor's rights.**

A subcontractor has no contractual rights against the Government upon the termination of a prime contract. A subcontractor may have rights against the prime contractor or intermediate subcontractor with whom it has contracted. Upon termination of a prime contract, the prime contractor and each subcontractor are responsible for the prompt settlement of the settlement proposals of their immediate subcontractors.

##### **49.108-2 Prime contractor's rights and obligations.**

(a) Termination for convenience clauses provide that after receipt of a termination notice the prime contractor shall, unless directed otherwise by the TCO, terminate all subcontracts to the extent that they relate to the performance of prime work terminated. Therefore, prime contractors should include a termination clause in their subcontracts for their own protection. Suggestions regarding use of subcontract termination clauses are in [Subpart 49.5](#).

(b) The failure of a prime contractor to include an appropriate termination clause in any subcontract, or to exercise the clause rights, shall not—

(1) Affect the Government's right to require the termination of the subcontract; or

(2) Increase the obligation of the Government beyond what it would have been if the subcontract had contained an appropriate clause.

(c) In any case, the reasonableness of the prime contractor's settlement with the subcontractor should normally be measured by the aggregate amount due under paragraph (f) of the subcontract termination clause suggested in [49.502\(e\)](#). The TCO shall allow reimbursement in excess of that amount only in unusual cases and then only to the extent that the terms of the subcontract did not unreasonably increase the rights of the subcontractor.



**49.108-3 Settlement procedure.**

(a) Contractors shall settle with subcontractors in general conformity with the policies and principles relating to settlement of prime contracts in this subpart and [Subparts 49.2](#) or [49.3](#). However, the basis and form of the subcontractor's settlement proposal must be acceptable to the prime contractor or the next higher tier subcontractor. Each settlement must be supported by accounting data and other information sufficient for adequate review by the Government. In no event will the Government pay the prime contractor any amount for loss of anticipatory profits or consequential damages resulting from the termination of any subcontract (but see [49.108-5](#)).

(b) Except as provided in [49.108-4](#), the TCO shall require that—

(1) All subcontractor termination inventory be disposed of and accounted for in accordance with the procedures contained in paragraph (j) of the clause at [52.245-1](#), Government Property; and

(2) The prime contractor submit, for approval or ratification, all termination settlements with subcontractors.

(c) The TCO shall promptly examine each subcontract settlement received to determine that the subcontract termination was made necessary by the termination of the prime contract (or by issuance of a change order—see [49.002\(b\)](#)). The TCO will also determine if the settlement was arrived at in good faith, is reasonable in amount, and is allocable to the terminated portion of the contract (or, if allocable only in part, that the proposed allocation is reasonable). In considering the reasonableness of any subcontract settlement, the TCO shall generally be guided by the provisions of this part relating to the settlement of prime contracts, and shall comply with any applicable requirements of [49.107](#) and [49.111](#) relating to accounting and other reviews. After the examination, the TCO shall notify the contractor in writing of—

- (1) Approval or ratification, or
- (2) The reasons for disapproval.

**49.108-4 Authorization for subcontract settlements without approval or ratification.**

(a)(1) The TCO may, upon written request, give written authorization to the prime contractor to conclude settlements of subcontracts terminated in whole or in part without approval or ratification when the amount of settlement (see [49.002\(d\)](#)) is \$100,000 or less, if—

(i) The TCO is satisfied with the adequacy of the procedures used by the contractor in settling settlement proposals, including proposals for retention, sale, or other disposal of termination inventory of the immediate and lower tier subcontractors (the TCO shall obtain the advice and recommendations of—

(A) The appropriate audit agency relating to the adequacy of the contractor's audit administration, including personnel, and

(B) The cognizant plant clearance officer relating to the adequacy of the contractor's procedures and personnel for the administration of property disposal matters);

(ii) Any termination inventory included in determining the amount of the settlement will be disposed of as directed by the prime contractor, except that the disposition of the inventory shall not be subject to—

(A) Review by the TCO under [49.108-3\(c\)](#); or

(B) The screening requirements in [45.602-3](#); and

(iii) A certificate similar to the certificate in the settlement proposal form in [49.602-1\(a\)](#) will accompany the settlement.

(2) Except as provided in paragraph (a)(4) of this section, authority granted to a prime contractor under paragraph (a)(1) of this section by any TCO shall apply to all Executive agencies' prime contracts that are terminated, or modified by change orders.

(3) Except as provided in paragraph (a)(4) of this section, the TCO shall accept, as part of the prime contractor's settlement proposal, settlements of terminated lower tier subcontracts concluded by any of the prime contractor's immediate or lower tier subcontractors who have been granted authority as prime contractors to settle subcontracts; provided, that the settlement is within the limit of the authority. Authorization to settle proposals of lower tier subcontractors shall not be granted directly to subcontractors. However, a prime contractor authorized to approve subcontractor settlements may also exercise this authority in its capacity as a subcontractor, with respect to its terminated subcontracts and orders. When exercising this authority as a subcontractor, the contractor shall notify the purchaser.

(4) The provisions of paragraphs (a)(1), (2), and (3) of this section shall not apply to contracts under the administration of any contracting officer if the contracting officer so notifies the prime contractor concerned. This notice shall

(i) Be in writing, and

(ii) If paragraph (a)(3) of this section is involved, specify any subcontractor affected.

(b) Section [45.602](#) shall apply to disposal of completed end items allocable to the terminated subcontract. However, these items may be disposed of without review by the TCO under [49.108-3](#) and without screening under [45.602-3](#), if the items do not require demilitarization and the total amount (at the subcontract price) when added to the amount of the settlement does not exceed the amount authorized under this subsection.

(c) A TCO granting the authorization in paragraph (a)(1) of this section shall periodically (at least annually) make a selective review of settlements and settlement procedures to determine if the contractor is making adequate reviews and fair settlements, and whether the authorization should remain in effect. The TCO shall obtain the advice and recommendations of the appropriate audit agency and the cognizant plant clearance officer. When it is determined that the contractor's pro-

cedures are not adequate, or that improper settlements are being made, or when the authority has not been used in the preceding 2 years, the TCO shall revoke the authorization by written notice to the contractor, effective on the date of receipt.

(d) The contractor may make any number of separate settlements with a single subcontractor but shall not divide settlement proposals solely to bring them under an authorization limit. Separate settlement proposals that would normally be included in a single proposal, such as those based on a series of separate orders for the same item under one contract, shall be consolidated whenever possible.

(e) Upon written request of the contractor, the TCO may increase an authorization granted under paragraph (a)(1) of this subsection to authorize the contractor to conclude settlements under a particular prime contract. The TCO may limit the increased authorization to specific subcontracts or classes of subcontracts.

(f) Authorizations granted under this [49.108-4](#) shall not authorize the settlement of requisitions or orders placed with any unit within the contractor's corporate entity.

(g) Recommended formats for a request to settle subcontractor settlement proposals and the TCO's letter of authorization to the contractor are in [49.605](#) and [49.606](#), respectively.

#### **49.108-5 Recognition of judgments and arbitration awards.**

(a) When a subcontractor obtains a final judgment against a prime contractor, the TCO shall, for the purposes of settling the prime contract, treat the amount of the judgment as a cost of settling with the contractor, to the extent the judgment is properly allocable to the terminated portion of the prime contract, if—

(1) The prime contractor has made reasonable efforts to include in the subcontract a termination clause described in [49.502\(e\)](#), [49.503\(c\)](#), or a similar clause excluding payment of anticipatory profits or consequential damages;

(2) The provisions of the subcontract relating to the rights of the parties upon its termination are fair and reasonable and do not unreasonably increase the common law rights of the subcontractor;

(3) The contractor made reasonable efforts to settle the settlement proposal of the subcontractor;

(4) The contractor gave prompt notice to the contracting officer of the initiation of the proceedings in which the judgment was rendered and did not refuse to give the Government control of the defense of the proceedings; and

(5) The contractor diligently defended the suit or, if the Government assumed control of the defense of the proceedings, rendered reasonable assistance requested by the Government.

(b) If the conditions in paragraphs (a)(1) through (5) of this section are not all met, the TCO may allow the contractor the

part of the judgment considered fair for settling the subcontract settlement proposal, giving due regard to the policies in this part for settlement of proposals.

(c) When a contractor and a subcontractor submit the subcontractor's settlement proposal to arbitration under any applicable law or contract provision, the TCO shall recognize the arbitration award as the cost of settling the proposal of the contractor to the same extent and under the same conditions as in paragraphs (a) and (b) of this section.

#### **49.108-6 Delay in settling subcontractor settlement proposals.**

When a prime contractor's inability to settle with a subcontractor delays the settlement of the prime contract, the TCO may settle with the prime contractor. The TCO shall except the subcontractor settlement proposal from the settlement in whole or part and reserve the rights of the Government and the prime contractor with respect to the subcontractor proposal.

#### **49.108-7 Government assistance in settling subcontracts.**

In unusual cases the TCO may determine, with the consent of the prime contractor, that it is in the Government's interest to provide assistance to the prime contractor in the settlement of a particular subcontract. In these situations, the Government, the prime contractor, and a subcontractor may enter into an agreement covering the settlement of one or more subcontracts. In these settlements, the subcontractor shall be paid through the prime contractor as part of the overall settlement with the prime contractor.

#### **49.108-8 Assignment of rights under subcontracts.**

(a) The termination for convenience clauses in 52.249, except the short-form clauses, obligate the prime contractor to assign to the Government, as directed by the TCO, all rights, titles, and interest under any subcontract terminated because of termination of the prime contract. The TCO shall not require the assignment unless it is in the Government's interest.

(b) The termination for convenience clauses (except the short-form clauses) also provide the Government the right, in its discretion, to settle and pay any settlement proposal arising out of the termination of subcontracts. This right does not obligate the Government to settle and pay settlement proposals of subcontractors. As a general rule, the prime contractor is obligated to settle and pay these proposals. However, when the TCO determines that it is in the Government's interest, the TCO shall, after notifying the contractor, settle the subcontractor's proposal using the procedures for settlement of prime contracts. An example in which the Government's interest would be served is when a subcontractor is a sole source and it appears that a delay by the prime contractor in settlement or

payment of the subcontractor's proposal will jeopardize the financial position of the subcontractor. Direct settlements with subcontractors are not encouraged.

#### 49.109 Settlement agreements.

##### 49.109-1 General.

When a termination settlement has been negotiated and all required reviews have been obtained, the contractor and the TCO shall execute a settlement agreement on [Standard Form 30](#) (Amendment of Solicitation/Modification of Contract) (see [49.603](#)). The settlement shall cover—

- (a) Any setoffs that the Government has against the contractor that may be applied against the terminated contract and
- (b) All settlement proposals of subcontractors, except proposals that are specifically excepted from the agreement and reserved for separate settlement.

##### 49.109-2 Reservations.

- (a) The TCO shall—
  - (1) Reserve in the settlement agreement any rights or demands of the parties that are excepted from the settlement;
  - (2) Ensure that the wording of the reservation does not create any rights for the parties beyond those in existence before execution of the settlement agreement;
  - (3) Mark each applicable settlement agreement with “This settlement agreement contains a reservation” and retain the contract file until the reservation is removed;
  - (4) Ensure that sufficient funds are retained to cover complete settlement of the reserved items; and
  - (5) At the appropriate time, prepare a separate settlement of reserved items and include it in a separate settlement agreement.
- (b) A recommended format for settlement of reservations appears in [49.603-9](#).

##### 49.109-3 Government property.

Before execution of a settlement agreement, the TCO shall determine the accuracy of the Government property account for the terminated contract. If an audit discloses property for which the contractor cannot account, the TCO shall reserve in the settlement agreement the rights of the Government regarding that property or make an appropriate deduction from the amount otherwise due the contractor.

##### 49.109-4 No-cost settlement.

The TCO shall execute a no-cost settlement agreement (see [49.603-6](#) or [49.603-7](#), as applicable) if—

- (a) The contractor has not incurred costs for the terminated portion of the contract or
- (b) The contractor is willing to waive the costs incurred and
- (c) No amounts are due the Government under the contract.

##### 49.109-5 Partial settlements.

The TCO should attempt to settle in one agreement all rights and liabilities of the parties under the contract except those arising from any continued portion of the contract. Generally, the TCO shall not attempt to make partial settlements covering particular items of the prime contractor's settlement proposal. However, when a TCO cannot promptly complete settlement under the terminated contract, a partial settlement may be entered into if—

- (a) The issues on which agreement has been reached are clearly severable from other issues and
- (b) The partial settlement will not prejudice the Government's or contractor's interests in disposing of the unsettled part of the settlement proposal.

##### 49.109-6 Joint settlement of two or more settlement proposals.

(a) With the consent of the contractor, the TCO or TCO's concerned may negotiate jointly two or more termination settlement proposals of the same contractor under different contracts, even though the contracts are with different contracting offices or agencies. In such cases, accounting work shall be consolidated to the greatest extent practical. The resulting settlement may be evidenced by one settlement agreement covering all contracts involved or by a separate agreement for each contract involved.

- (b) When the settlement agreement covers more than one contract, it shall—
  - (1) Clearly identify the contracts involved,
  - (2) Assign an amendment modification number to each contract,
  - (3) Apportion the total amount of the settlement among the several contracts on some reasonable basis,
  - (4) Have attached or incorporated a schedule showing the apportionment, and
  - (5) Be distributed and attached to each contract involved in the same manner as other contract modifications.

##### 49.109-7 Settlement by determination.

(a) *General.* If the contractor and TCO cannot agree on a termination settlement, or if a settlement proposal is not submitted within the period required by the termination clause, the TCO shall issue a determination of the amount due consistent with the termination clause, including any cost principles incorporated by reference. The TCO shall comply with [49.109-1](#) through [49.109-6](#) in making a settlement by determination and with [49.203](#) in making an adjustment for loss, if any. Copies of determinations shall receive the same distribution as other contract modifications.

(b) *Notice to contractor.* Before issuing a determination of the amount due the contractor, the TCO shall give the contractor at least 15 days notice by certified mail (return receipt requested) to submit written evidence, so as to reach the TCO

on or before a stated date, substantiating the amount previously proposed.

(c) *Justification of settlement proposal.* (1) The contractor has the burden of establishing, by proof satisfactory to the TCO, the amount proposed.

(2) The contractor may submit vouchers, verified transcripts of books of account, affidavits, audit reports, and other documents as desired. The TCO may request the contractor to submit additional documents and data, and may request appropriate accountings, investigations, and audits.

(3) The TCO may accept copies of documents and records without requiring original documents unless there is a question of authenticity.

(4) The TCO may hold any conferences considered appropriate—

(i) To confer with the contractor,

(ii) To obtain additional information from Government personnel or from independent experts, or

(iii) To consult persons who have submitted affidavits or reports.

(d) *Determinations.* After reviewing the information available, the TCO shall determine the amount due and shall transmit a copy of the determination to the contractor by certified mail (return receipt requested), or by any other method that provides evidence of receipt. The transmittal letter shall advise the contractor that the determination is a final decision from which the contractor may appeal under the Disputes clause, except as shown in paragraph (f) of this section. The determination shall specify the amount due the contractor and will be supported by detailed schedules conforming generally to the forms for settlement proposals prescribed in [49.602-1](#) and by additional information, schedules, and analyses as appropriate. The TCO shall explain each major item of disallowance. The TCO need not reconsider any other action relating to the terminated portion of the contract that was ratified or approved by the TCO or another contracting officer.

(e) *Preservation of evidence.* The TCO shall retain all written evidence and other data relied upon in making a determination, except that copies of original books of account need not be made. The TCO shall return books of account, together with other original papers and documents, to the contractor within a reasonable time.

(f) *Appeals.* The contractor may appeal, under the Disputes clause, any settlement by determination, except when the contractor has failed to submit the settlement proposal within the time provided in the contract and failed to request an extension of time. The pendency of an appeal shall not affect the authority of the TCO to settle the settlement proposal or any part by negotiation with the contractor at any time before the appeal is decided.

(g) *Decision on the contractor's appeal.* The TCO shall give effect to a decision of the Claims Court or a board of contract appeals, when necessary, by an appropriate modification

to the contract. When appropriate, the TCO should obtain a release from the contractor. TCO's are authorized to modify the formats of settlement agreements in [49.603](#) to agree with this provision.

#### **49.110 Settlement negotiation memorandum.**

(a) The TCO shall, at the conclusion of negotiations, prepare a settlement negotiation memorandum describing the principal elements of the settlement for inclusion in the termination case file and for use by reviewing authorities. Pricing aspects of the settlement shall be documented in accordance with [15.406-3](#). The memorandum shall be distributed in accordance with [15.406-3](#).

(b) If the settlement was negotiated on the basis of individual items, the TCO shall specify the factors considered for each item. If the settlement was negotiated on an overall lump-sum basis, the TCO need not evaluate each item or group of items individually, but shall support the total amount of the recommended settlement in reasonable detail. The memorandum shall include explanations of matters involving differences and doubtful questions settled by agreement, and the factors considered. The TCO should include any other matters that will assist reviewing authorities in understanding the basis for the settlement.

#### **49.111 Review of proposed settlements.**

Each agency shall establish procedures, when necessary, for the administrative review of proposed termination settlements. When one agency provides termination settlement services for another agency, the agency providing the services shall also perform the settlement review function.

#### **49.112 Payment.**

##### **49.112-1 Partial payments.**

(a) *General.* If the contract authorizes partial payments on settlement proposals before settlement, a prime contractor may request them on the form prescribed in [49.602-4](#) at any time after submission of interim or final settlement proposals. The Government will process applications for partial payments promptly. A subcontractor shall submit its application through the prime contractor which shall attach its own invoice and recommendations to the subcontractor's application. Partial payments to a subcontractor shall be made only through the prime contractor and only after the prime contractor has submitted its interim or final settlement proposal. Except for undelivered acceptable finished products, partial payments shall not be made for profit or fee claimed under the terminated portion of the contract. In exercising discretion on the extent of partial payments to be made, the TCO shall consider the diligence of the contractor in settling with subcontractors and in preparing its own settlement proposal.

(b) *Amount of partial payment.* Before approving any partial payment, the TCO shall obtain any desired accounting, engineering, or other specialized reviews of the data submitted in support of the contractor's settlement proposal. If the reviews and the TCO's examination of the data indicate that the requested partial payment is proper, reasonable payments may be authorized in the discretion of the TCO up to—

(1) 100 percent of the contract price, adjusted for undelivered acceptable items completed before the termination date, or later completed with the approval of the TCO (see [49.205](#));

(2) 100 percent of the amount of any subcontract settlement paid by the prime contractor if the settlement was approved or ratified by the TCO under [49.108-3\(c\)](#) or was authorized under [49.108-4](#);

(3) 90 percent of the direct cost of termination inventory, including costs of raw materials, purchased parts, supplies, and direct labor;

(4) 90 percent of other allowable costs (including settlement expense and manufacturing and administrative indirect costs) allocable to the terminated portion of the contract and not included in paragraphs (b)(1), (2), or (3) of this section; and

(5) 100 percent of partial payments made to subcontractors under this section.

(c) *Recognition of assignments.* When an assignment of claims has been made under the contract, the Government shall not make partial payments to other than the assignee unless the parties to the assignment consent in writing (see [32.805\(e\)](#)).

(d) *Security for partial payments.* If any partial payment is made for completed end items or for costs of termination inventory, the TCO shall protect the Government's interest. This shall be done by obtaining title to the completed end items or termination inventory, or by the creation of a lien in favor of the Government, paramount to all other liens, on the completed end items or termination inventory, or by other appropriate means.

(e) *Deductions in computing amount of partial payments.* The TCO shall deduct from the gross amount of any partial payment otherwise payable under [49.112-1\(b\)](#)—

(1) All unliquidated balances of progress and advance payments (including interest) made to the contractor, which are allocable to the terminated portion of the contract; and

(2) The amounts of all credits arising from the purchase, retention, or sale of property, the costs of which are included in the application for payment.

(f) *Limitation on total amount.* The total amount of all partial payments shall not exceed the amount that will, in the opinion of the TCO, become due to the contractor because of the termination.

(g) *Effect of overpayment.* If the total of partial payments exceeds the amount finally determined due on the settlement

proposal, the contractor shall repay the excess to the Government on demand, together with interest. The interest shall be computed at the rate established by the Secretary of the Treasury under [50 U.S.C. App. 1215\(b\)\(2\)](#) from the date the excess payment was received by the contractor to the date of repayment. However, interest will not be charged for any—

(1) Excess payment attributable to a reduction in the settlement proposal because of retention or other disposition of termination inventory, until 10 days after the date of the retention or disposition, or a later date determined by the TCO, or

(2) Overpayment under cost-reimbursement research and development contracts without profit or fee if the overpayments are repaid to the Government within 30 days after demand.

(h) *Certification and approval of partial payments.*

(1) The contractor shall place the following certification on vouchers or invoices for partial payments:

The payment covered by this voucher is a partial payment on the Contractor's settlement proposal under contract No. \_\_\_\_\_ under [Part 49](#) of the Federal Acquisition Regulation.

(2) The TCO shall approve the invoice or voucher by noting on it the following:

Payment of \$ \_\_\_\_\_ is approved.

#### **49.112-2 Final payment.**

(a) *Negotiated settlement.* After execution of a settlement agreement, the contractor shall submit a voucher or invoice showing the amount agreed upon, less any portion previously paid. The TCO shall attach a copy of the settlement agreement to the voucher or invoice and forward the documents to the disbursing officer for payment.

(b) *Settlement by determination.* If the settlement is by determination and—

(1) There is no appeal within the allowed time, the contractor shall submit a voucher or invoice showing the amount determined due, less any portion previously paid; or

(2) There is an appeal, the contractor shall submit a voucher or invoice showing the amount finally determined due on the appeal, less any portion previously paid. Pending determination of any appeal, the contractor may submit vouchers or invoices for charges that are not directly involved with the portion being appealed, without prejudice to the rights of either party on the appeal.

(c) *Construction contracts.* In the case of construction contracts, before forwarding the final payment voucher, the contracting officer shall ascertain whether there are any outstanding labor violations. If so, the contracting officer shall determine the amount to be withheld from the final payment (see [Subpart 22.4](#)).

(d) *Interest.* The Government shall not pay interest on the amount due under a settlement agreement or a settlement by

determination. The Government may, however, pay interest on a successful contractor appeal from a contracting officer's determination under the Disputes clause at [52.233-1](#).

#### **49.113 Cost principles.**

The cost principles and procedures in the applicable subpart of [Part 31](#) shall, subject to the general principles in [49.201](#)—

(a) Be used in asserting, negotiating, or determining costs relevant to termination settlements under contracts with other than educational institutions, and

(b) Be a guide for the negotiation of settlements under contracts for experimental, developmental, or research work with educational institutions (but see [31.104](#)).

#### **49.114 Unsettled contract changes.**

(a) Before settlement of a completely terminated contract, the TCO shall obtain from the contracting office a list of all related unsettled contract changes. The TCO shall settle, as part of final settlement, all unsettled contract changes after obtaining the recommendations of the contracting office concerning the changes.

(b) When the contract has been partially terminated, any outstanding unsettled contract changes will usually be handled by the contracting officer. However, the contracting officer may delegate this function to the TCO.

#### **49.115 Settlement of terminated incentive contracts.**

(a) *Fixed-price incentive contracts.* The TCO shall settle terminated fixed-price incentive (FPI) contracts under the provisions of paragraph (j) of the clause at [52.216-16](#), Incentive Price Revision—Firm Target, and [52.249-2](#), Termination for Convenience of the Government (Fixed-Price).

(1) *Partial termination.* Under a partially terminated contract, the TCO shall negotiate a settlement as provided in the termination clause of the contract, and paragraph (j) of the clause at [52.216-16](#), Incentive Price Revision—Firm Target,

or paragraph (1) of the clause at [52.216-17](#), Incentive Price Revision—Successive Targets. The contracting officer shall apply the incentive price revision provisions to completed items accepted by the Government, including any for which the contractor may request reimbursement in the settlement proposal. The TCO shall reimburse the contractor at target price for completed articles included in the settlement proposal for which a final price has not been established. The TCO shall incorporate in the settlement agreement an appropriate reservation as to final price for these completed articles.

(2) *Complete termination.* If any items were delivered and accepted by the Government, the contracting officer shall establish prices under the incentive provisions of the contract. On the terminated portion of the contract, the provisions of the termination clause (see [52.249-2](#), Termination for Convenience of the Government (Fixed-Price)) shall govern and the provisions of the incentive clause shall not apply. The TCO responsible for the termination settlement will ensure, on the basis of evidence considered proper (including coordination with the contracting officer), that no portion of the costs considered in the negotiations under the incentive provisions are included in the termination settlement.

(b) *Cost-plus-incentive-fee contracts.* The TCO shall settle terminated cost-plus-incentive-fee contracts under the clause at [52.249-6](#), Termination (Cost-Reimbursement).

(1) *Partial termination.* Under a partial termination, the TCO shall limit the settlement to an adjustment of target fee as provided in paragraph (e) of the clause at [52.216-10](#), Incentive Fee. The settlement agreement shall include a reservation regarding any adjustment of target cost resulting from the partial termination. The contracting officer shall adjust the target cost, if required.

(2) *Complete termination.* The parties shall negotiate the settlement under the provisions of [Subpart 49.3](#) and the clause at [52.249-6](#), Termination (Cost Reimbursement). The fee shall be adjusted on the basis of the target fee, and the incentive provisions shall not be applied or considered.

**Subpart 49.6—Contract Termination Forms and Formats**

by electronic means similar instructions to all subcontractors and suppliers. Detailed instructions follow.

**49.601 Notice of termination for convenience.**

(See 49.402-3(g) for notice of termination for default.)

\_\_\_\_\_  
(Contracting Officer)

**49.601-1 Electronic notice.**

The contracting officer may provide expedited notice of termination by electronic means that includes a requirement for the contractor to confirm receipt. If the contractor does not confirm receipt promptly, the contracting officer shall resend the notice electronically, and expedite the letter notice described in 49.601-2. If confirmation of the electronic notice is received, and the electronic notice includes all content in 49.601-2, the contracting officer need not send the letter notice described in 49.601-2.

(a) *Complete termination.* The following electronic notice is suggested for use if a supply contract is being completely terminated for convenience. If appropriately modified, the notice may be used for other than supply contracts.

Date \_\_\_\_\_

XYZ Corporation  
New York, NY 12345

Contract No. \_\_\_\_\_ is completely terminated under clause \_\_\_\_\_, effective \_\_\_\_\_ [insert “immediately, (today’s date)” or “on \_\_\_\_\_, 20\_\_\_\_,” or “as soon as you have delivered, including prior deliveries, the following items:” (list)]. Immediately stop all work, terminate subcontracts, and place no further orders except to the extent [insert if applicable “necessary to complete items not terminated or”] that you or a subcontractor wish to retain and continue for your own account any work-in-process or other materials. Provide by electronic means similar instructions to all subcontractors and suppliers. Detailed instructions follow.

\_\_\_\_\_  
(Contracting Officer)

(b) *Partial termination.* The following electronic notice is suggested for use if a supply contract is being partially terminated for convenience. If appropriately modified, the notice may be used for other than supply contracts.

Date \_\_\_\_\_

XYZ Corporation  
New York, NY 12345

Contract No. \_\_\_\_\_ is partially terminated under clause \_\_\_\_\_, effective \_\_\_\_\_ [insert “immediately, (today’s date)” or “on \_\_\_\_\_, 20\_\_\_\_”]. Reduce items to be delivered as follows: [insert instructions]. Immediately stop all work, terminate subcontracts, and place no further orders except as necessary to perform the portion not terminated or that you or a subcontractor wish to retain and continue for your account any work-in-process or other materials. Provide

**49.601-2 Letter notice.**

The following letter notice of termination is suggested for use if a contract for supplies is being terminated for convenience. With appropriate modifications, it may be used in terminating contracts for other than supplies and in terminating subcontracts. This notice shall be sent by certified mail, return receipt requested, or electronically, provided evidence of receipt is received by the contracting officer. If no prior electronic notice was issued, or if no confirmation of an electronic notice was received, use the alternate notice that follows this notice.

**NOTICE OF TERMINATION TO PRIME CONTRACTORS**

[At the top of the notice, set out all special details relating to the particular termination; e.g., name and address of company, contract number of terminated contract, items, etc.]

(a) *Effective date of termination.* This confirms the Government’s electronic notice to you dated \_\_\_\_\_, 20\_\_\_\_, terminating \_\_\_\_\_ [insert “completely” or “in part”] Contract No. \_\_\_\_\_ (referred to as “the contract”) for the Government’s convenience under the clause entitled \_\_\_\_\_ [insert title of appropriate termination clause]. The termination is effective on the date and in the manner stated in the electronic notice.

(b) *Cessation of work and notification to immediate subcontractors.* You shall take the following steps:

(1) Stop all work, make no further shipments, and place no further orders relating to the contract, except for—

- (i) The continued portion of the contract, if any;
- (ii) Work-in-process or other materials that you may wish to retain for your own account; or

(iii) Work-in-process that the Contracting Officer authorizes you to continue (A) for safety precautions, (B) to clear or avoid damage to equipment, (C) to avoid immediate complete spoilage of work-in-process having a definite commercial value, or (D) to prevent any other undue loss to the Government. (If you believe this authorization is necessary or advisable, immediately notify the Contracting Officer by telephone or personal conference and obtain instructions.)

(2) Keep adequate records of your compliance with paragraph (b)(1) of this section showing the—

- (i) Date you received the Notice of Termination;
- (ii) Effective date of the termination; and
- (iii) Extent of completion of performance on the effective date.

(3) Furnish notice of termination to each immediate subcontractor and supplier that will be affected by this termination. In the notice—

- (i) Specify your Government contract number;

(ii) State whether the contract has been terminated completely or partially;

(iii) Provide instructions to stop all work, make no further shipments, place no further orders, and terminate all subcontracts under the contract, subject to the exceptions in paragraph (b)(1) of this section;

(iv) Provide instructions to submit any settlement proposal promptly; and

(v) Request that similar notices and instructions be given to its immediate subcontractors.

(4) Notify the Contracting Officer of all pending legal proceedings that are based on subcontracts or purchase orders under the contract, or in which a lien has been or may be placed against termination inventory to be reported to the Government. Also, promptly notify the Contracting Officer of any such proceedings that are filed after receipt of this Notice.

(5) Take any other action required by the Contracting Officer or under the Termination clause in the contract.

(c) *Termination inventory.* (1) As instructed by the Contracting Officer, transfer title and deliver to the Government all termination inventory of the following types or classes, including subcontractor termination inventory that you have the right to take: [*Contracting Officer insert proper identification or "None"*].

(2) To settle your proposal, it will be necessary to establish that all prime and subcontractor termination inventory has been properly accounted for. For detailed information, see [Part 45](#).

(d) *Settlements with subcontractors.* You remain liable to your subcontractors and suppliers for proposals arising because of the termination of their subcontracts or orders. You are requested to settle these settlement proposals as promptly as possible. For purposes of reimbursement by the Government, settlements will be governed by the provisions of [Part 49](#).

(e) *Completed end items.* (1) Notify the Contracting Officer of the number of items completed under the contract and still on hand and arrange for their delivery or other disposal (see [49.205](#)).

(2) Invoice acceptable completed end items under the contract in the usual way and do not include them in the settlement proposal.

(f) *Patents.* If required by the contract, promptly forward the following to the Contracting Officer:

(1) Disclosure of all inventions, discoveries, and patent applications made in the performance of the contract.

(2) Instruments of license or assignment on all inventions, discoveries, and patent applications made in the performance of the contract.

(g) *Employees affected.* (1) If this termination, together with other outstanding terminations, will necessitate a significant reduction in your work force, you are urged to—

(i) Promptly inform the local State Employment Service of your reduction-in-force schedule in numbers and occupations, so that the Service can take timely action in assisting displaced workers;

(ii) Give affected employees maximum practical advance notice of the employment reduction and inform them of the facilities and services available to them through the local State Employment Service offices;

(iii) Advise affected employees to file applications with the State Employment Service to qualify for unemployment insurance, if necessary;

(iv) Inform officials of local unions having agreements with you of the impending reduction-in-force; and

(v) Inform the local Chamber of Commerce and other appropriate organizations which are prepared to offer practical assistance in finding employment for displaced workers of the impending reduction-in-force.

(2) If practicable, urge subcontractors to take similar actions to those described in paragraph (1) of this section.

(h) *Administrative.* The contract administration office named in the contract will identify the Contracting Officer who will be in charge of the settlement of this termination and who will, upon request, provide the necessary settlement forms. Matters not covered by this notice should be brought to the attention of the undersigned.

(i) Please acknowledge receipt of this notice as provided below.

\_\_\_\_\_  
(Contracting Officer)

\_\_\_\_\_  
(Name of Office)

\_\_\_\_\_  
(Address)

ACKNOWLEDGMENT OF NOTICE

The undersigned acknowledges receipt of a signed copy of this notice on \_\_\_\_\_, 20\_\_\_\_. Two signed copies of this notice are returned.

\_\_\_\_\_  
(Name of Contractor)

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

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

(End of notice)

*Alternate notice.* Substitute the following paragraph (a) for paragraph (a) of [49.601-2](#), Notice of Termination to Prime Contractors, if no prior electronic notice was issued, or if no confirmation of an electronic notice was received:

(a) *Effective date of termination.* You are notified that Contract No. \_\_\_\_\_ (referred to as "the contract") is terminated \_\_\_\_\_ [*insert "completely" or "in part"*] for the Government's convenience under the clause entitled \_\_\_\_\_ [*insert title of appropriate termination clause*]. The termination is effective \_\_\_\_\_ [*insert either "immediately upon receipt of this Notice" or "on \_\_\_\_\_, 20\_\_\_\_," or "as soon as you have delivered,*



including prior deliveries, the following items:” (*list*). Reduce items to be delivered as follows: [*insert instructions*].

#### 49.602 Forms for settlement of terminated contracts.

The standard forms listed below shall be used for settling terminated prime contracts. The forms at [49.602-1](#) and [49.602-2](#) may also be used for settling terminated subcontracts. Standard forms are illustrated in [Subpart 53.3](#).

##### 49.602-1 Termination settlement proposal forms.

(a) [Standard Form 1435](#), Settlement Proposal (Inventory Basis), shall be used to submit settlement proposals resulting from the termination of fixed-price contracts if the proposals are computed on an inventory basis (see [49.206-2\(a\)](#)).

(b) [Standard Form 1436](#), Settlement Proposal (Total Cost Basis), shall be used to submit settlement proposals resulting from the termination of fixed-price contracts if the proposals are computed on a total cost basis (see [49.206-2\(b\)](#)).

(c) [Standard Form 1437](#), Settlement Proposal for Cost-Reimbursement Type Contracts, shall be used to submit settlement proposals resulting from the termination of cost-reimbursement contracts (see [49.302](#)).

(d) [Standard Form 1438](#), Settlement Proposal (Short Form), shall be used to submit settlement proposals resulting from the termination of fixed-price contracts if the total proposal is less than \$10,000 (see [49.206-1\(d\)](#)).

##### 49.602-2 Inventory forms.

[Standard Form \(SF\) 1428](#), Inventory Disposal Schedule, and [SF 1429](#), Inventory Disposal Schedule—Continuation Sheet, shall be used to support settlement proposals submitted on the forms specified in [49.602-1\(b\)](#) and (d).

##### 49.602-3 Schedule of accounting information.

[Standard Form 1439](#), Schedule of Accounting Information, shall be filed in support of a settlement proposal unless the proposal is filed on [Standard Form 1438](#), Settlement Proposal (Short Form) (see [49.206-1\(e\)](#)).

##### 49.602-4 Partial payments.

[Standard Form 1440](#), Application for Partial Payment, shall be used to apply for partial payments (see [49.112-1](#)).

##### 49.602-5 Settlement agreement.

[Standard Form 30 \(SF 30\)](#), Amendment of Solicitation/Modification of Contract, shall be used to execute a settlement agreement (see [49.109-1](#)).

#### 49.603 Formats for termination for convenience settlement agreements.

The formats to be used for termination for convenience settlement agreements should be substantially as shown in this section (see [49.109](#)). Termination contracting officers

(TCO’s) may, however, modify the contents of these agreements to conform with special termination clauses prescribed or authorized by their agencies (e.g., see [49.501](#) and [49.505\(c\)](#)).

#### 49.603-1 Fixed price contracts—complete termination.

[*Insert the following in Block 14 of [SF 30](#) for settlements of fixed-price contracts completely terminated.*]

(a) This supplemental agreement settles the settlement proposal resulting from the Notice of Termination dated \_\_\_\_\_.

(b) The parties agree to the following:

(1) The Contractor certifies that all contract termination inventory (including scrap) has been retained or acquired by the contractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits have been used in arriving at this agreement.

(2) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by this agreement, has furnished the contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract, and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(3) The contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement, (i) are properly allocable to the terminated portion of the contract, (ii) do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and (iii) do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(4) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received, or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(5) The Contractor shall, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(6)(i) The Contractor has received \$\_\_\_\_\_ for work and services performed, or items delivered, under the completed

portion of the contract. The Government confirms the right of the Contractor, subject to paragraph (7) of this section, to retain this sum and agrees that it constitutes a portion of the total amount to which the Contractor is entitled in complete and final settlement of the contract.

(ii) Further, the Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, the sum of \$ \_\_\_\_\_ [insert net amount of settlement], arrived at by deducting from the sum of \$ \_\_\_\_\_ [for proposals on an inventory basis insert gross amount of settlement; for proposals on a total cost basis, insert gross amount of settlement less amount shown in subdivision (6)(i) of this subsection]—

(A) The amount of \$ \_\_\_\_\_ for all unliquidated partial or progress payments previously made to the Contractor or its assignee and all unliquidated advance payments (with any interest),

(B) The amount of \$ \_\_\_\_\_ for all applicable property disposal credits [insert if appropriate, “and (C) the amount of \$ \_\_\_\_\_ for all other amounts due the Government under this contract, except as provided in paragraph (7) of this section.”]

(iii) The net settlement of \$ \_\_\_\_\_ in subdivision (ii) of this section, together with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor for the complete termination of the contract and all other demands and liabilities of the Contractor and the Government under the contract, except as provided in paragraph (b)(7) of this section.

(7) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109-2). The suggested language of the excepted items on the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.]

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights of the Government to take the benefit of agreements or judgments affecting royalties paid or payable in connection with the performance of the contract.

(iii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.]

(iv) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(v) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the Government by the Contractor under the contract or this agreement.

(vi) All rights and liabilities of the parties under the contract relating to any contract termination inventory stored for the Government.

(vii) All rights and liabilities of the parties under agreements relating to the future care and disposition by the Contractor of Government-owned property remaining in the Contractor's custody.

(viii) All rights and liabilities of the parties relating to Government property furnished to the Contractor for the performance of this contract.

(ix) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, and covenants of indemnity.

(x) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

#### 49.603-2 Fixed-price contracts—partial termination.

[Insert the following in Block 14 of SF 30 for settlements of fixed-price contracts partially terminated.]

(a) This supplemental agreement settles the settlement proposal resulting from the Notice of Termination dated \_\_\_\_\_.

(b) The parties agree to the following:

(1) The terminated portion of the contract is as follows: [specify the terminated portion clearly as to—

- (i) Item numbers,
- (ii) Descriptions,
- (iii) Quantity terminated,
- (iv) Unit price of items,
- (v) Total price of terminated items, and
- (vi) Any other explanation necessary to avoid uncertainty or misunderstanding].

(2) The Contractor certifies that all contract termination inventory (including scrap) has been retained or acquired by the Contractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits have been used in arriving at this agreement.

(3) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the pro-

posal settled by this agreement, has furnished the Contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract, and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(4) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement, (i) are properly allocable to the terminated portion of the contract, (ii) do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and (iii) do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(5) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received, or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(6) The Contractor shall, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(7)(i) The Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, the sum of \$ \_\_\_\_\_ [*insert net amount of settlement*], arrived at by deducting from \$ \_\_\_\_\_ [*insert gross amount of settlement*],

(A) the amount of \$ \_\_\_\_\_ for all unliquidated partial or progress payments previously made to the Contractor or its assignee and all unliquidated advance payments (with any interest) applicable to the terminated portion of the contract and

(B) the amount of \$ \_\_\_\_\_ for all applicable property disposal credits.

(ii) The net settlement of \$ \_\_\_\_\_ in subdivision (b)(7)(i) of this section, together with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor for the terminated portion of the contract, except as provided in paragraph (b)(8) of this section.

(iii) Upon payment of the net settlement of \$ \_\_\_\_\_, all obligations of the Contractor to perform further work or services or to make further deliveries under the terminated portion of the contract and all obligations of the Government to take further payments or carry out other undertakings concerning the

terminated portion of the contract shall cease; provided, that nothing in this agreement shall impair or affect any covenants, terms, or conditions of the contract relating to the completed or continued portion of this contract.

(8) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109-2). The suggested language of the excepted items in the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.*]

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights of the Government to take the benefit of agreements or judgments affecting royalties paid or payable in connection with the performance of the contract.

(iii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.*]

(iv) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(v) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the government by the Contractor under the contract or this agreement.

(vi) All rights and liabilities of the parties under the contract relating to any contract termination inventory stored for the Government.

(vii) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

#### **49.603-3 Cost reimbursement contracts—complete termination, if settlement includes cost.**

[*Insert the following in Block 14 of SF 30 for settlement of cost-reimbursement contracts that are completely terminated, if settlement includes costs.*]

(a) This supplemental agreement settles the settlement proposal resulting from the Notice of Termination dated \_\_\_\_\_.

(b) The parties agree to the following:

(1) The Contractor certifies that all contract termination inventory (including scrap) has been retained or acquired by the Contractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits have been used in arriving at this agreement.

(2) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by this agreement, has furnished the Contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract; and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(3) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement, (i) are properly allocable to the terminated portion of the contract, (ii) do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and (iii) do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(4) The Contractor transfers, conveys, and assigns to the Government all the right, title and interest, if any, that the Contractor has received, or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(5) The Contractor shall, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(6)(i) The Contractor has received \$ \_\_\_\_\_ for work and services performed, or articles delivered, under the contract before the effective date of termination. The Government confirms the right of the Contractor, subject to paragraph (b)(7) of this section, to retain this sum and agrees that it constitutes a portion of the total amount to which the Contractor is entitled in complete and final settlement of the contract.

(ii) Further, the Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, the sum of \$ \_\_\_\_\_ [*insert net amount of settlement*], arrived at by deducting from the sum of \$ \_\_\_\_\_ [*insert gross*

*amount of settlement less amount shown in subdivision (6)(i) of this section*]—

(A) The amount of \$ \_\_\_\_\_ for all unliquidated partial or progress payments previously made to the Contractor or its assignee and all unliquidated advance payments (with any interest),

(B) The amount of \$ \_\_\_\_\_ for all applicable property disposal credits [*insert if appropriate*, “and (C) the amount of \$ \_\_\_\_\_ for all other amounts due the Government under this contract, except as provided in paragraph (b)(7) of this section.”]

(iii) The net settlement of \$ \_\_\_\_\_ in subdivision (b)(6)(ii) of this section, together with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor for the complete termination of the contract and of all other demands and liabilities of the Contractor and the Government under the contract, except as provided in paragraph (b)(7) in this section.

(7) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [*The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109-2). The suggested language of the excepted items on the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.*]

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights of the Government to take the benefit of agreements or judgments affecting royalties paid or payable in connection with the performance of the contract.

(iii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. [*If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.*]

(iv) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(v) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the Government by the Contractor under the contract or this agreement.

(vi) All rights and liabilities of the parties under the contract relating to any contract termination inventory stored for the Government.

(vii) All rights and liabilities of the parties under agreements relating to the future care and disposition by the Contractor of Government-owned property remaining in the Contractor's custody.

(viii) All rights and liabilities of the parties relating to Government property furnished to the Contractor for the performance of this contract.

(ix) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, and covenants of indemnity.

(x) Unresolved demands or assertions by the Contractor against the Government for costs under Government Accountability Office exceptions or other costs of the same nature that are excluded from the settlement without prejudice to the rights of either party, as follows: *[Insert amount and describe charges not waived.]*

(xi) Claims by the Contractor against the Government, when the Contractor's rights of reimbursement are disputed, that are excluded without prejudice to the rights of either party are as follows: *[Insert the amounts and describe the claims on which the Contracting Officer has made findings and has disallowed and on which the Contractor has taken, or intends to take, timely appeal.]*

(xii) Unresolved demands or assertions by the Contractor against the Government that are unknown in amount and involve costs alleged to be reimbursable under the contract are as follows: *[Insert the estimated amounts and describe the charges.]*

(xiii) Unknown amounts alleged by the Contractor against the Government, based upon responsibility of the Contractor to third parties that involve costs reimbursable under the contract.

(xiv) Debts due the Government by the Contractor that are based on refunds, rebates, credits, or other amounts not now known to the Government, with interest, now due or that may become due the Contractor from third parties, if the amounts arise out of transactions for which reimbursement has been made to the Contractor under the contract. The Contractor shall pay to the Government, within 30 days after receipt, any of these amounts that become due from any third party or any other source. Interest at the rate established by the Secretary of the Treasury under [50 U.S.C. \(App.\) 1215\(b\)\(2\)](#) shall accrue and shall be paid to the Government on any amounts that remain unpaid after the 30-day period.

(xv) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

#### 49.603-4 Cost-reimbursement contracts—complete termination, with settlement limited to fee.

*[Insert the following in Block 14 of SF 30 for settlement of cost-reimbursement contracts that are completely terminated, if settlement is limited to fee.]*

(a) This supplemental agreement settles the amount of fee due under the contract, terminated in its entirety by Notice of Termination dated \_\_\_\_\_.

(b) The parties agree to the following:

(1) The Contractor has received \$ \_\_\_\_\_ on account of its fee under the contract before the effective date of termination.

(2) The Government agrees to pay to the Contractor or its assignee, upon presentation of a proper invoice or voucher, \$ \_\_\_\_\_ *[insert net amount to be paid on account of fee]*. This sum, with sums previously paid, constitutes payment in full and complete settlement of the amount due the Contractor on account of its fee under the contract.

(3) The Contractor's allowable costs under the contract will be paid under the terms and conditions of the contract and [Parts 31](#) and [49](#) of the Federal Acquisition Regulation. *[Insert paragraph (a)(3) of this subsection only if there are costs to be vouchered out (see 49.302) or if there are costs to be covered later by a separate settlement agreement.]*

(4) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: *[The following list of reserved or excepted rights and liabilities is intended to cover those that should most frequently be reserved and that should be scrutinized at the time a settlement agreement is negotiated (see 49.109-2). The suggested language of the excepted items on the list may be varied at the discretion of the contracting officer. If accuracy or completeness can be achieved by referencing the number of a contract clause or provision covering the matter in question, then follow that method of enumerating reserved rights and liabilities. Omit any of the following that are not applicable and add any additional exceptions or reservations required.]*

(i) All rights and liabilities, if any, of the parties, as to matters covered by any renegotiation authority.

(ii) All rights and liabilities, if any, of the parties under those clauses inserted in the contract because of the requirements of Acts of Congress and Executive orders, including, without limitation, any applicable clauses relating to: labor law, contingent fees, domestic articles, and employment of aliens. *[If the contract contains clauses of this character inserted for reasons other than requirements of Acts of Congress or Executive orders, the suggested language should be appropriately modified.]*

(iii) All rights and liabilities of the parties arising under the contract and relating to reproduction rights, patent infringements, inventions, or applications for patents, including rights to assignments, invention reports, licenses, covenants of indemnity against patent risks, and bonds for patent indemnity obligations, together with all rights and liabilities under the bonds.

(iv) All rights and liabilities of the parties, arising under the contract or otherwise, and concerning defects, guarantees, or warranties relating to any articles or component parts furnished to the Government by the Contractor under the contract or this agreement.

(v) All rights and liabilities of the parties under agreements relating to the future care and disposition by the Contractor of Government-owned property remaining in the Contractor's custody.

(vi) All rights and liabilities of the parties relating to Government property furnished to, or acquired by, the Contractor for the performance of the contract.

(vii) All rights and liabilities of the parties under the contract relating to options (except options to continue or increase the work under the contract), covenants not to compete, and covenants of indemnity.

(viii) All rights and liabilities, if any, of the parties under those clauses of the contract relating to price reductions for defective certified cost or pricing data.

(End of agreement)

#### 49.603-5 Cost-reimbursement contracts—partial termination.

*[Insert the following in Block 14 of SF 30, Amendment of Solicitation/Modification of Contract, for settlement agreements for cost-reimbursement contracts as a result of partial termination.]*

(a) This supplemental agreement settles the termination settlement proposal resulting from the Notice of Termination dated \_\_\_\_\_.

(b) The parties agree as follows:

(1) The contract is amended by deleting the terminated portion as follows: *[specify the terminated portion clearly as to—*

(i) Item numbers,

(ii) Descriptions,

(iii) Quantity terminated,

(iv) Unit and total price of terminated items, and

(v) *Any other explanation necessary to avoid uncertainty or misunderstanding.*

(2) The fee stated in the contract is decreased by \$ \_\_\_\_\_, from \$ \_\_\_\_\_ to \$ \_\_\_\_\_ *[Insert, if appropriate, “(3) The estimated cost of the contract is decreased by \$ \_\_\_\_\_, from \$ \_\_\_\_\_ to \$ \_\_\_\_\_”].*

(c) The Contractor's allowable costs and earned fee, if any, for the terminated portion of the contract will continue to be reimbursed on SF 1034, Public Voucher for Purchase and Services Other Than Personal, under the applicable provisions of the contract and Part 31 of the Federal Acquisition Regulation.

(End of agreement)

#### 49.603-6 No-cost settlement agreement—complete termination.

*[Insert the following in Block 14 of SF 30 if a no-cost settlement agreement, under a complete termination, is to be executed.]*

(a) This supplemental agreement *[insert “modifies the contract to reflect a no-cost settlement agreement with respect to the Notice of Termination dated \_\_\_\_\_” or, if not previously terminated, “terminates the contract in its entirety”].*

(b) The parties agree as follows:

The Contractor unconditionally waives any charges against the Government because of the termination of the contract and, except as set forth below, releases it from all obligations under the contract or due to its termination. The Government agrees that all obligations under the contract are concluded, except as follows: *[List reserved or excepted rights and liabilities. See 49.109-2 and 49.603-1(b)(7).]*

(End of agreement)

#### 49.603-7 No-cost settlement agreement—partial termination.

*[Insert the following in Block 14 of SF 30 if a no-cost settlement agreement, under partial termination, is to be executed.]*

(a) This supplemental agreement modifies the contract to reflect a no-cost settlement agreement with respect to the Notice of Termination dated \_\_\_\_\_.

(b) The parties agree as follows:

(1) The terminated portion of the contract is as follows: *[Specify—*

(i) item numbers,

(ii) descriptions,

(iii) quantity terminated,

(iv) unit and total price of terminated items, and

(v) *any other explanation necessary to avoid uncertainty or misunderstanding.*]

(2) The Contractor unconditionally waives any charges against the Government arising under the terminated portion of the contract or by reason of its termination, including, without limitation, all obligations of the Government to make further payments or to carry out any further undertakings under the terminated portion of the contract. The Government acknowledges that the Contractor has no obligation to perform further work or services or to make further deliveries under the terminated portion of the contract. Nothing in this paragraph affects any other covenants, terms, or conditions of the contract. Under the terminated portion of the contract, the following rights and liabilities of the parties are reserved: *[List reserved or excepted rights and liabilities. See 49.109-2 and 49.603-1(b)(7).]*

(End of agreement)

**49.603-8 Fixed-price contracts—settlements with subcontractors only.**

[Insert the following in Block 14 of *SF 30* for settlements of fixed-price contracts covering only settlements with subcontractors.]

(a) This agreement settles that portion of the settlement proposal of the contractor that is based upon termination of the following subcontracts entered into in performing this contract: [Insert a list of the terminated subcontracts included in this settlement.]

(b) The parties agree to the following:

(1) The Contractor certifies that each immediate subcontractor, whose settlement proposal is included in the proposal settled by the agreement, has furnished the Contractor a certificate stating—

(i) That all subcontract termination inventory (including scrap) has been retained or acquired by the subcontractor, sold to third parties, returned to suppliers, delivered to or stored for the Government, or otherwise properly accounted for, and that all proceeds and retention credits were used in arriving at the settlement of the subcontract, and

(ii) That the subcontractor has received a similar certificate from each immediate subcontractor whose proposal was included in its proposal.

(2) The Contractor certifies that all items of termination inventory, the costs of which were used in arriving at the amount of this settlement or the settlement of any subcontract settlement proposal included in this settlement,—

(i) Are properly allocable to the terminated portion of the contract,

(ii) Do not exceed the reasonable quantitative requirements of the terminated portion of the contract, and

(iii) Do not include any items reasonably usable without loss to the Contractor on its other work. The Contractor further certifies that the Contracting Officer has been informed of any substantial change in the status of the items between the dates of the termination inventory schedules and the date of this agreement.

(3) The Contractor transfers, conveys, and assigns to the Government all the right, title, and interest, if any, that the Contractor has received or is entitled to receive, in and to subcontract termination inventory not otherwise properly accounted for.

(4) The Contractor shall, within 10 days after receipt of the payment specified in this agreement, pay to each of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and, if the Contractor so elects, any amounts due and payable to the Contractor by those subcontractors.

(5) The Government agrees to pay the Contractor or its assignee, upon presentation of a proper invoice or voucher, \$\_\_\_ [insert net amount of settlement], which, together with the amount of \$\_\_\_ previously paid the Contractor as partial, progress, or advance payments, constitutes payment in full and complete settlement, except as provided in paragraph (b)(6) of this section, of the amount due the Contractor for that portion

of its settlement proposal that is based upon termination of the subcontracts listed above.

(6) Regardless of any other provision of this agreement, the following rights and liabilities of the parties under the contract are reserved: [List reserved or excepted rights and liabilities. See *49.109-2* and *49.603-1(b)(7)*.]

(End of agreement)

**49.603-9 Settlement of reservations.**

[Insert the following in Block 14 of *SF 30* for settlement of reservations.]

(a) Supplemental Agreement No. \_\_\_\_, dated \_\_\_\_, was executed to reflect the settlement of the termination of this contract. The supplemental agreement excepted from the settlement certain items described in the agreement including the items described in paragraph (b) of this section. This supplemental agreement settles those items listed in paragraph (b) of this section.

(b) The parties agree to the following:

(1) The Government agrees to pay the contractor \$\_\_\_ for the following reserved or excepted items:\* [List items.]

(2) The Contractor releases and forever discharges the Government from all liability and from all existing and future claims and demands that it may have under this contract, insofar as it pertains to the contract, for the items described in paragraph (1) of this section.\*

\*When payment is due the Government, reverse the words “Government” and “contractor” in paragraphs (b)(1) and (b)(2).

(End of agreement)

**49.604 Release of excess funds under terminated contracts.**

The following format shall be used to recommend the release of excess funds under terminated contracts, except if the contracting office retains responsibility for settlement of the termination:

FROM: Termination Contracting Officer \_\_\_\_\_ [address]

To: Contracting office \_\_\_\_\_ [address]

SUBJ: Terminated Contract No \_\_\_\_\_ with \_\_\_\_\_ [Contractor]

Refs:

(a) [Cite termination notice and effective date.]

(b) [Cite prior letters releasing excess funds, if any.]

(1) Referenced termination notice, \_\_\_\_ [insert “completely” or “partially”] terminated contract \_\_\_\_\_.

(2) Based on the best information available, it is estimated that the gross settlement cost will be \$\_\_\_\_. The amount available for release as excess to the contract is \$\_\_\_\_. Any pay-

ments previously made to the Contractor for terminated items have been considered in arriving at the above amounts.

*[If prior letters recommending release of excess funds are cited, use the following as paragraph 2:]*

The estimated settlement costs previously reported by reference (b) in the amount of \$\_\_\_\_ are revised. On the best evidence now available, it is estimated that the settlement costs will be \$\_\_\_\_. The additional amount available for release is \$\_\_\_\_.]

(3) The related appropriations and amounts involved are:

Appropriations	Allocated Amounts
_____	_____
_____	_____

*Copies to:*

Paying Office

Accounting and Finance Office

Other

#### **49.605 Request to settle subcontractor settlement proposals.**

Contractors requesting authority to settle subcontractor settlement proposals shall furnish applicable information from the list below and any additional information required by the contracting officer:

- (a) Name of contractor and address of principal office.
- (b) Name and location of divisions of the applicant's plant for which authorization is requested.
- (c) An explanation of the necessity and justification for the authorization requested.
- (d) A full description of the applicant's organization for handling terminations, including the names of the officials in charge of processing and settling proposals.
- (e) The number and dollar amount (estimated if necessary) of uncompleted contracts with Government agencies and the percentage applicable to each agency.
- (f) The number and dollar amount (estimated if necessary) of uncompleted subcontracts under Government contracts and the percentage applicable to each agency.
- (g) The extent of the applicant's experience in termination matters, including the handling of proposals of subcontractors.
- (h) The approximate amount and general nature of terminations of the applicant currently in process.
- (i) A statement that no other application has been made for any division of the applicant's plant covered by the application or, if one has been made, a full statement of the facts.
- (j) The limit of authorization requested.

#### **49.606 Granting subcontract settlement authorization.**

Contracting officers shall use the following format when granting subcontract settlement authorization:

#### LETTER OF AUTHORIZATION

(a) Your request of \_\_\_\_ (date) is approved, and you are authorized, subject to the limitations of subsection [49.108-4](#) and those stated below, to settle, without further approval of the Government, all subcontracts and purchase orders terminated by you as a result of a Government contract being terminated or modified—

- (1) For the convenience of the Government or
- (2) Under any other circumstances that may require the Government to bear the cost of their settlement.

(b) This authorization does not extend to the disposition of Government-furnished material or articles completed but undelivered under the subcontract or purchase order, as these require screening and approval of disposal actions by the Government, except that allocable completed articles may be disposed of without Government approval or screening if the total amount (at subcontract price) when added to the amount of settlement (as computed below) does not exceed \$\_\_\_\_ [*insert limit of authorization being granted*].

(c) This authorization is subject to the following conditions and requirements:

(1) The amount of the subcontract termination settlement does not exceed \$\_\_\_\_ [*insert limit of authorization being granted*], computed as follows:

(i) Do not deduct advance or partial payments or credits for retention or other disposal of termination inventory allocated to the settlement proposal.

(ii) Deduct amounts payable for completed articles or work at the contract price or for the settlement of termination proposals of subcontractors (except those settlements that have not been approved by the Government).

(2) Any termination inventory involved has been disposed of under subsection [49.108-4](#), except that screening and Government approval of scrap and salvage determinations are not required.

(3) The Contracting Officer may incorporate into each Notice of Termination specific instructions about the disposition of specific items of termination inventory, or the Contracting Officer may, at any time before final settlement, issue specific instructions. These instructions will not affect any disposal action taken by you or your subcontractors before their receipt.

(4) The settlements made by you with your subcontractors and suppliers under this authorization, including sales, retention, or other dispositions of property involved in making these settlements, are reimbursable under [Part 49](#) and the Termination clause of the contract, and do not require approval of the Contracting Officer.

(5) Any number of separate settlements of \$\_\_\_\_ [*insert limit of authorization granted*] or less may be made with a single subcontractor. Settlement proposals that would normally be included in a single proposal; e.g., those based on a series of separate orders for the same item under one contract, should be consolidated whenever possible and shall not be divided to bring them within the authorization.



(6) This authorization does not apply if a subcontractor or supplier is affiliated with you. For this purpose, you should consider a contractor to be affiliated with you if you are under common control or if there is any common interest between you by reason of stock ownership, or otherwise, that is sufficient to create a reasonable doubt that the bargaining between you is completely at arm’s length.

(7) A representative of this office will, from time to time, review the methods used in negotiating settlements with your subcontractors and will make a selective examination of the settlements made by you. If the review indicates that you are not adequately protecting the Government’s interest, this delegation will be revoked.

(End of letter)

**49.607 Delinquency notices.**

The formats of the delinquency notices in this section may be used to satisfy the requirements of [49.402-3](#). All notices will be sent with proof of delivery requested. (See [Subpart 42.13](#) for stop-work orders.)

(a) *Cure notice.* If a contract is to be terminated for default before the delivery date, a “Cure Notice” is required by the Default clause. Before using this notice, it must be ascertained that an amount of time equal to or greater than the period of “cure” remains in the contract delivery schedule or any extension to it. If the time remaining in the contract delivery schedule is not sufficient to permit a realistic “cure” period of 10 days or more, the “Cure Notice” should not be issued. The “Cure Notice” may be in the following format:

CURE NOTICE

You are notified that the Government considers your \_\_\_\_\_ [*specify the contractor’s failure or failures*] a condition that is endangering performance of the contract. Therefore, unless this condition is cured within 10 days after receipt of this notice [*or insert any longer time that the Contracting Officer may con-*

*sider reasonably necessary*], the Government may terminate for default under the terms and conditions of the \_\_\_\_\_ [*insert clause title*] clause of this contract.

(End of notice)

(b) *Show cause notice.* If the time remaining in the contract delivery schedule is not sufficient to permit a realistic “cure” period of 10 days or more, the following “Show Cause Notice” may be used. It should be sent immediately upon expiration of the delivery period.

SHOW CAUSE NOTICE

Since you have failed to \_\_\_\_\_ [*insert “perform Contract No. \_\_\_\_\_ within the time required by its terms,” or “cure the conditions endangering performance under Contract No. \_\_\_\_\_ as described to you in the Government’s letter of \_\_\_\_\_ (date)”*], the Government is considering terminating the contract under the provisions for default of this contract. Pending a final decision in this matter, it will be necessary to determine whether your failure to perform arose from causes beyond your control and without fault or negligence on your part. Accordingly, you are given the opportunity to present, in writing, any facts bearing on the question to \_\_\_\_\_ [*insert the name and complete address of the contracting officer*], within 10 days after receipt of this notice. Your failure to present any excuses within this time may be considered as an admission that none exist. Your attention is invited to the respective rights of the Contractor and the Government and the liabilities that may be invoked if a decision is made to terminate for default.

Any assistance given to you on this contract or any acceptance by the Government of delinquent goods or services will be solely for the purpose of mitigating damages, and it is not the intention of the Government to condone any delinquency or to waive any rights the Government has under the contract.

(End of notice)

\* \* \* \* \*

This page intentionally left blank.

**PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

Sec.

<p>52.000 Scope of part.</p> <p style="text-align: center;"><b>Subpart 52.1—Instructions for Using Provisions and Clauses</b></p> <p>52.100 Scope of subpart.</p> <p>52.101 Using Part 52.</p> <p>52.102 Incorporating provisions and clauses.</p> <p>52.103 Identification of provisions and clauses.</p> <p>52.104 Procedures for modifying and completing provisions and clauses.</p> <p>52.105 Procedures for using alternates.</p> <p>52.106 [Reserved]</p> <p>52.107 Provisions and clauses prescribed in <a href="#">Subpart 52.1</a>.</p> <p style="text-align: center;"><b>Subpart 52.2—Text of Provisions and Clauses</b></p> <p>52.200 Scope of subpart.</p> <p>52.201 [Reserved]</p> <p>52.202-1 Definitions.</p> <p>52.203-1 [Reserved]</p> <p>52.203-2 Certificate of Independent Price Determination.</p> <p>52.203-3 Gratuities.</p> <p>52.203-4 [Reserved]</p> <p>52.203-5 Covenant Against Contingent Fees.</p> <p>52.203-6 Restrictions on Subcontractor Sales to the Government.</p> <p>52.203-7 Anti-Kickback Procedures.</p> <p>52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.</p> <p>52.203-9 [Reserved]</p> <p>52.203-10 Price or Fee Adjustment for Illegal or Improper Activity.</p> <p>52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.</p> <p>52.203-12 Limitation on Payments to Influence Certain Federal Transactions.</p> <p>52.203-13 Contractor Code of Business Ethics and Conduct.</p> <p>52.203-14 Display of Hotline Poster(s).</p> <p>52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.</p> <p>52.203-16 Preventing Personal Conflicts of Interest.</p> <p>52.203-17 Contractor Employee Whistleblower Rights and Requirement To Inform Employees of Whistleblower Rights.</p> <p>52.204-1 Approval of Contract.</p> <p>52.204-2 Security Requirements.</p> <p>52.204-3 Taxpayer Identification.</p> <p>52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper.</p> <p>52.204-5 Women-Owned Business (Other Than Small Business).</p> <p>52.204-6 Unique Entity Identifier.</p> <p>52.204-7 System for Award Management.</p> <p>52.204-8 Annual Representations and Certifications.</p> <p>52.204-9 Personal Identity Verification of Contractor Personnel.</p> <p>52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards.</p> <p>52.204-11 [Reserved]</p> <p>52.204-12 Unique Entity Identifier Maintenance.</p>	<p>52.204-13 System for Award Management Maintenance.</p> <p>52.204-14 Service Contract Reporting Requirements.</p> <p>52.204-15 Service Contract Reporting Requirements for Indefinite-Delivery Contracts.</p> <p>52.204-16 Commercial and Government Entity Code Reporting.</p> <p>52.204-17 Ownership or Control of Offeror.</p> <p>52.204-18 Commercial and Government Entity Code Maintenance.</p> <p>52.204-19 Incorporation by Reference of Representations and Certifications.</p> <p>52.204-20 Predecessor of Offeror.</p> <p>52.204-21 Basic Safeguarding of Covered Contractor Information Systems.</p> <p>52.205 [Reserved]</p> <p>52.206 [Reserved]</p> <p>52.207-1 Notice of Standard Competition.</p> <p>52.207-2 Notice of Streamlined Competition.</p> <p>52.207-3 Right of First Refusal of Employment.</p> <p>52.207-4 Economic Purchase Quantity—Supplies.</p> <p>52.207-5 Option to Purchase Equipment.</p> <p>52.207-6 Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts).</p> <p>52.208-1 [Reserved]</p> <p>52.208-2 [Reserved]</p> <p>52.208-3 [Reserved]</p> <p>52.208-4 Vehicle Lease Payments.</p> <p>52.208-5 Condition of Leased Vehicles.</p> <p>52.208-6 Marking of Leased Vehicles.</p> <p>52.208-7 Tagging of Leased Vehicles.</p> <p>52.208-8 Required Sources for Helium and Helium Usage Data.</p> <p>52.208-9 Contractor Use of Mandatory Sources of Supply or Services.</p> <p>52.209-1 Qualification Requirements.</p> <p>52.209-2 Prohibition on Contracting with Inverted Domestic Corporations—Representation.</p> <p>52.209-3 First Article Approval—Contractor Testing.</p> <p>52.209-4 First Article Approval—Government Testing.</p> <p>52.209-5 Certification Regarding Responsibility Matters.</p> <p>52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.</p> <p>52.209-7 Information Regarding Responsibility Matters.</p> <p>52.209-8 [Reserved]</p> <p>52.209-9 Updates of Publicly Available Information Regarding Responsibility Matters.</p> <p>52.209-10 Prohibition on Contracting with Inverted Domestic Corporations.</p> <p>52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.</p> <p>52.209-12 Certification Regarding Tax Matters.</p> <p>52.210 [Reserved]</p> <p>52.210-1 Market Research.</p>
---	---

- 52.211-1 Availability of Specifications Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29.
- 52.211-2 Availability of Specifications, Standards, and Data Item Descriptions Listed in the Acquisition Streamlining and Standardization Information System (ASSIST).
- 52.211-3 Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.
- 52.211-4 Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.
- 52.211-5 Material Requirements.
- 52.211-6 Brand Name or Equal.
- 52.211-7 Alternatives to Government-Unique Standards.
- 52.211-8 Time of Delivery.
- 52.211-9 Desired and Required Time of Delivery.
- 52.211-10 Commencement, Prosecution, and Completion of Work.
- 52.211-11 Liquidated Damages—Supplies, Services, or Research and Development.
- 52.211-12 Liquidated Damages—Construction.
- 52.211-13 Time Extensions.
- 52.211-14 Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use.
- 52.211-15 Defense Priority and Allocation Requirements.
- 52.211-16 Variation in Quantity.
- 52.211-17 Delivery of Excess Quantities.
- 52.211-18 Variation in Estimated Quantity.
- 52.212-1 Instructions to Offerors—Commercial Items.
- 52.212-2 Evaluation—Commercial Items.
- 52.212-3 Offeror Representations and Certifications—Commercial Items.
- 52.212-4 Contract Terms and Conditions—Commercial Items.
- 52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.
- 52.213-1 Fast Payment Procedure.
- 52.213-2 Invoices.
- 52.213-3 Notice to Supplier.
- 52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).
- 52.214-1 [Reserved]
- 52.214-2 [Reserved]
- 52.214-3 Amendments to Invitations for Bids.
- 52.214-4 False Statements in Bids.
- 52.214-5 Submission of Bids.
- 52.214-6 Explanation to Prospective Bidders.
- 52.214-7 Late Submissions, Modifications, and Withdrawals of Bids.
- 52.214-8 [Reserved]
- 52.214-9 [Reserved]
- 52.214-10 Contract Award—Sealed Bidding.
- 52.214-11 [Reserved]
- 52.214-12 Preparation of Bids.
- 52.214-13 Telegraphic Bids.
- 52.214-14 Place of Performance—Sealed Bidding.
- 52.214-15 Period for Acceptance of Bids.
- 52.214-16 Minimum Bid Acceptance Period.
- 52.214-17 [Reserved]
- 52.214-18 Preparation of Bids—Construction.
- 52.214-19 Contract Award—Sealed Bidding—Construction.
- 52.214-20 Bid Samples.
- 52.214-21 Descriptive Literature.
- 52.214-22 Evaluation of Bids for Multiple Awards.
- 52.214-23 Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.
- 52.214-24 Multiple Technical Proposals.
- 52.214-25 Step Two of Two-Step Sealed Bidding.
- 52.214-26 Audit and Records—Sealed Bidding.
- 52.214-27 Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding.
- 52.214-28 Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding.
- 52.214-29 Order of Precedence—Sealed Bidding.
- 52.214-30 [Reserved]
- 52.214-31 Facsimile Bids.
- 52.214-32 [Reserved]
- 52.214-33 [Reserved]
- 52.214-34 Submission of Offers in the English Language.
- 52.214-35 Submission of Offers in U.S. Currency.
- 52.215-1 Instructions to Offerors—Competitive Acquisition.
- 52.215-2 Audit and Records—Negotiation.
- 52.215-3 Request for Information or Solicitation for Planning Purposes.
- 52.215-4 [Reserved]
- 52.215-5 Facsimile Proposals.
- 52.215-6 Place of Performance.
- 52.215-7 [Reserved]
- 52.215-8 Order of Precedence—Uniform Contract Format.
- 52.215-9 Changes or Additions to Make-or-Buy Program.
- 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data.
- 52.215-11 Price Reduction for Defective Certified Cost or Pricing Data—Modifications.
- 52.215-12 Subcontractor Certified Cost or Pricing Data.
- 52.215-13 Subcontractor Certified Cost or Pricing Data—Modifications.

- 
- 52.215-14 Integrity of Unit Prices.
  - 52.215-15 Pension Adjustments and Asset Reversions.
  - 52.215-16 Facilities Capital Cost of Money.
  - 52.215-17 Waiver of Facilities Capital Cost of Money.
  - 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions.
  - 52.215-19 Notification of Ownership Changes.
  - 52.215-20 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.
  - 52.215-21 Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications.
  - 52.215-22 Limitations on Pass-Through Charges—Identification of Subcontract Effort.
  - 52.215-23 Limitations on Pass-Through Charges.
  - 52.216-1 Type of Contract.
  - 52.216-2 Economic Price Adjustment—Standard Supplies.
  - 52.216-3 Economic Price Adjustment—Semistandard Supplies.
  - 52.216-4 Economic Price Adjustment—Labor and Material.
  - 52.216-5 Price Redetermination—Prospective.
  - 52.216-6 Price Redetermination—Retroactive.
  - 52.216-7 Allowable Cost and Payment.
  - 52.216-8 Fixed Fee.
  - 52.216-9 Fixed Fee—Construction.
  - 52.216-10 Incentive Fee.
  - 52.216-11 Cost Contract—No Fee.
  - 52.216-12 Cost-Sharing Contract—No Fee.
  - 52.216-13 [Reserved]
  - 52.216-14 [Reserved]
  - 52.216-15 Predetermined Indirect Cost Rates.
  - 52.216-16 Incentive Price Revision—Firm Target.
  - 52.216-17 Incentive Price Revision—Successive Targets.
  - 52.216-18 Ordering.
  - 52.216-19 Order Limitations.
  - 52.216-20 Definite Quantity.
  - 52.216-21 Requirements.
  - 52.216-22 Indefinite Quantity.
  - 52.216-23 Execution and Commencement of Work.
  - 52.216-24 Limitation of Government Liability.
  - 52.216-25 Contract Definitization.
  - 52.216-26 Payments of Allowable Costs Before Definitization.
  - 52.216-27 Single or Multiple Awards.
  - 52.216-28 Multiple Awards for Advisory and Assistance Services.
  - 52.216-29 Time-and-Materials/Labor-Hour Proposal Requirements—Non-Commercial Item Acquisition With Adequate Price Competition.
  - 52.216-30 Time-and-Materials/Labor-Hour Proposal Requirements—Non-Commercial Item Acquisition Without Adequate Price Competition.
  - 52.216-31 Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition.
  - 52.217-1 [Reserved]
  - 52.217-2 Cancellation Under Multi-year Contracts.
  - 52.217-3 Evaluation Exclusive of Options.
  - 52.217-4 Evaluation of Options Exercised at Time of Contract Award.
  - 52.217-5 Evaluation of Options.
  - 52.217-6 Option for Increased Quantity.
  - 52.217-7 Option for Increased Quantity—Separately Priced Line Item.
  - 52.217-8 Option to Extend Services.
  - 52.217-9 Option to Extend the Term of the Contract.
  - 52.218 [Reserved]
  - 52.219-1 Small Business Program Representations.
  - 52.219-2 Equal Low Bids.
  - 52.219-3 Notice of HUBZone Set-Aside or Sole Source Award.
  - 52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns.
  - 52.219-5 [Reserved]
  - 52.219-6 Notice of Total Small Business Set-Aside.
  - 52.219-7 Notice of Partial Small Business Set-Aside.
  - 52.219-8 Utilization of Small Business Concerns.
  - 52.219-9 Small Business Subcontracting Plan.
  - 52.219-10 Incentive Subcontracting Program.
  - 52.219-11 Special 8(a) Contract Conditions.
  - 52.219-12 Special 8(a) Subcontract Conditions.
  - 52.219-13 Notice of Set-Aside of Orders.
  - 52.219-14 Limitations on Subcontracting.
  - 52.219-15 [Reserved]
  - 52.219-16 Liquidated Damages—Subcontracting Plan.
  - 52.219-17 Section 8(a) Award.
  - 52.219-18 Notification of Competition Limited to Eligible 8(a) Concerns.
  - 52.219-19 [Reserved]
  - 52.219-20 [Reserved]
  - 52.219-21 [Reserved]
  - 52.219-22 [Reserved]
  - 52.219-23 [Reserved]
  - 52.219-24 [Reserved]
  - 52.219-25 [Reserved]
  - 52.219-26 [Reserved]
  - 52.219-27 Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.
  - 52.219-28 Post-Award Small Business Program Rerepresentation.

- 
- 52.219-29 Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns.
  - 52.219-30 Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Programs.
  - 52.220 [Reserved]
  - 52.221 [Reserved]
  - 52.222-1 Notice to the Government of Labor Disputes.
  - 52.222-2 Payment for Overtime Premiums.
  - 52.222-3 Convict Labor.
  - 52.222-4 Contract Work Hours and Safety Standards — Overtime Compensation.
  - 52.222-5 Construction Wage Rate Requirements— Secondary Site of the Work.
  - 52.222-6 Construction Wage Rate Requirements.
  - 52.222-7 Withholding of Funds.
  - 52.222-8 Payrolls and Basic Records.
  - 52.222-9 Apprentices and Trainees.
  - 52.222-10 Compliance with Copeland Act Requirements.
  - 52.222-11 Subcontracts (Labor Standards).
  - 52.222-12 Contract Termination—Debarment.
  - 52.222-13 Compliance with Construction Wage Rate Requirements and Related Regulations.
  - 52.222-14 Disputes Concerning Labor Standards.
  - 52.222-15 Certification of Eligibility.
  - 52.222-16 Approval of Wage Rates.
  - 52.222-17 Nondisplacement of Qualified Workers.
  - 52.222-18 Certification Regarding Knowledge of Child Labor for Listed End Products.
  - 52.222-19 Child Labor—Cooperation with Authorities and Remedies.
  - 52.222-20 Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000.
  - 52.222-21 Prohibition of Segregated Facilities.
  - 52.222-22 Previous Contracts and Compliance Reports.
  - 52.222-23 Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction.
  - 52.222-24 Preaward On-Site Equal Opportunity Compliance Evaluation.
  - 52.222-25 Affirmative Action Compliance.
  - 52.222-26 Equal Opportunity.
  - 52.222-27 Affirmative Action Compliance Requirements for Construction.
  - 52.222-28 [Reserved]
  - 52.222-29 Notification of Visa Denial.
  - 52.222-30 Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method).
  - 52.222-31 Construction Wage Rate Requirements—Price Adjustment (Percentage Method).
  - 52.222-32 Construction Wage Rate Requirements—Price Adjustment (Actual Method).
  - 52.222-33 Notice of Requirement for Project Labor Agreement.
  - 52.222-34 Project Labor Agreement.
  - 52.222-35 Equal Opportunity for Veterans.
  - 52.222-36 Equal Opportunity for Workers with Disabilities.
  - 52.222-37 Employment Reports on Veterans.
  - 52.222-38 Compliance with Veterans’ Employment Reporting Requirements.
  - 52.222-39 [Reserved]
  - 52.222-40 Notification of Employee Rights Under the National Labor Relations Act.
  - 52.222-41 Service Contract Labor Standards.
  - 52.222-42 Statement of Equivalent Rates for Federal Hires.
  - 52.222-43 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).
  - 52.222-44 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment.
  - 52.222-45 [Reserved]
  - 52.222-46 Evaluation of Compensation for Professional Employees.
  - 52.222-47 [Reserved]
  - 52.222-48 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.
  - 52.222-49 Service Contract Labor Standards—Place of Performance Unknown.
  - 52.222-50 Combating Trafficking in Persons.
  - 52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.
  - 52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.
  - 52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.
  - 52.222-54 Employment Eligibility Verification.
  - 52.222-55 Minimum Wages Under Executive Order 13658.
  - 52.222-56 Certification Regarding Trafficking in Persons Compliance Plan.
  - 52.222-57 Representation Regarding Compliance with Labor Laws (Executive Order 13673).
  - 52.222-58 Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673).

# FAC 2005–92 DECEMBER 19, 2016

## FEDERAL ACQUISITION REGULATION

---

- |   |  |
|---|--|
| <p>52.222-59 Compliance with Labor Laws (Executive Order 13673).</p> <p>52.222-60 Paycheck Transparency (Executive Order 13673).</p> <p>52.222-61 Arbitration of Contractor Employee Claims (Executive Order 13673).</p> <p>52.223-1 Biobased Product Certification.</p> <p>52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts.</p> <p>52.223-3 Hazardous Material Identification and Material Safety Data.</p> <p>52.223-4 Recovered Material Certification.</p> <p>52.223-5 Pollution Prevention and Right-to-Know Information.</p> <p>52.223-6 Drug-Free Workplace.</p> <p>52.223-7 Notice of Radioactive Materials.</p> <p>52.223-8 [Reserved]</p> <p>52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Items.</p> <p>52.223-10 Waste Reduction Program.</p> <p>52.223-11 Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons.</p> <p>52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.</p> <p>52.223-13 Acquisition of EPEAT®-Registered Imaging Equipment.</p> <p>52.223-14 Acquisition of EPEAT®-Registered Televisions.</p> <p>52.223-15 Energy Efficiency in Energy-Consuming Products.</p> <p>52.223-16 Acquisition of EPEAT®-Registered Personal Computer Products.</p> <p>52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.</p> <p>52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving.</p> <p>52.223-19 Compliance with Environmental Management Systems.</p> <p>52.223-20 Aerosols.</p> <p>52.223-21 Foams.</p> <p>52.223-22 Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.</p> <p>52.224-1 Privacy Act Notification.</p> <p>52.224-2 Privacy Act.</p> <p>52.225-1 Buy American—Supplies</p> <p>52.225-2 Buy American Certificate.</p> <p>52.225-3 Buy American—Free Trade Agreements-Israeli Trade Act.</p> <p>52.225-4 Buy American—Free Trade Agreements-Israeli Trade Act Certificate.</p> <p>52.225-5 Trade Agreements.</p> <p>52.225-6 Trade Agreements Certificate.</p> <p>52.225-7 Waiver of Buy American Statute for Civil Aircraft and Related Articles.</p> <p>52.225-8 Duty-Free Entry.</p> | <p>52.225-9 Buy American—Construction Materials.</p> <p>52.225-10 Notice of Buy American Requirement—Construction Materials.</p> <p>52.225-11 Buy American—Construction Materials under Trade Agreements.</p> <p>52.225-12 Notice of Buy American Requirement—Construction Materials Under Trade Agreements.</p> <p>52.225-13 Restrictions on Certain Foreign Purchases.</p> <p>52.225-14 Inconsistency between English Version and Translation of Contract.</p> <p>52.225-15 [Reserved]</p> <p>52.225-16 [Reserved]</p> <p>52.225-17 Evaluation of Foreign Currency Offers.</p> <p>52.225-18 Place of Manufacture.</p> <p>52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.</p> <p>52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan—Certification.</p> <p>52.225-21 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.</p> <p>52.225-22 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.</p> <p>52.225-23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials under Trade Agreements.</p> <p>52.225-24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements.</p> <p>52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.</p> <p>52.225-26 Contractors Performing Private Security Functions Outside the United States.</p> <p>52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.</p> <p>52.226-2 Historically Black College or University and Minority Institution Representation.</p> <p>52.226-3 Disaster or Emergency Area Representation.</p> <p>52.226-4 Notice of Disaster or Emergency Area Set-Aside.</p> <p>52.226-5 Restrictions on Subcontracting Outside Disaster or Emergency Area.</p> <p>52.226-6 Promoting Excess Food Donation to Nonprofit Organizations.</p> <p>52.227-1 Authorization and Consent.</p> <p>52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.</p> <p>52.227-3 Patent Indemnity.</p> <p>52.227-4 Patent Indemnity—Construction Contracts.</p> |
|---|--|

- 
- 52.227-5 Waiver of Indemnity.
  - 52.227-6 Royalty Information.
  - 52.227-7 Patents—Notice of Government Licensee.
  - 52.227-8 [Reserved]
  - 52.227-9 Refund of Royalties.
  - 52.227-10 Filing of Patent Applications—Classified Subject Matter.
  - 52.227-11 Patent Rights—Ownership by the Contractor.
  - 52.227-12 [Reserved]
  - 52.227-13 Patent Rights—Ownership by the Government.
  - 52.227-14 Rights in Data—General.
  - 52.227-15 Representation of Limited Rights Data and Restricted Computer Software.
  - 52.227-16 Additional Data Requirements.
  - 52.227-17 Rights in Data—Special Works.
  - 52.227-18 Rights in Data—Existing Works.
  - 52.227-19 Commercial Computer Software License.
  - 52.227-20 Rights in Data—SBIR Program.
  - 52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.
  - 52.227-22 Major System—Minimum Rights.
  - 52.227-23 Rights to Proposal Data (Technical).
  - 52.228-1 Bid Guarantee.
  - 52.228-2 Additional Bond Security.
  - 52.228-3 Workers' Compensation Insurance (Defense Base Act).
  - 52.228-4 Workers' Compensation and War-Hazard Insurance Overseas.
  - 52.228-5 Insurance—Work on a Government Installation.
  - 52.228-6 [Reserved]
  - 52.228-7 Insurance—Liability to Third Persons.
  - 52.228-8 Liability and Insurance—Leased Motor Vehicles.
  - 52.228-9 Cargo Insurance.
  - 52.228-10 Vehicular and General Public Liability Insurance.
  - 52.228-11 Pledges of Assets.
  - 52.228-12 Prospective Subcontractor Requests for Bonds.
  - 52.228-13 Alternative Payment Protections.
  - 52.228-14 Irrevocable Letter of Credit.
  - 52.228-15 Performance and Payment Bonds—Construction.
  - 52.228-16 Performance and Payment Bonds—Other Than Construction.
  - 52.229-1 State and Local Taxes.
  - 52.229-2 North Carolina State and Local Sales and Use Tax.
  - 52.229-3 Federal, State, and Local Taxes.
  - 52.229-4 Federal, State, and Local Taxes (State and Local Adjustments).
  - 52.229-5 [Reserved]
  - 52.229-6 Taxes—Foreign Fixed-Price Contracts.
  - 52.229-7 Taxes—Fixed-Price Contracts with Foreign Governments.
  - 52.229-8 Taxes—Foreign Cost-Reimbursement Contracts.
  - 52.229-9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.
  - 52.229-10 State of New Mexico Gross Receipts and Compensating Tax.
  - 52.230-1 Cost Accounting Standards Notices and Certification.
  - 52.230-2 Cost Accounting Standards.
  - 52.230-3 Disclosure and Consistency of Cost Accounting Practices.
  - 52.230-4 Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns.
  - 52.230-5 Cost Accounting Standards—Educational Institution.
  - 52.230-6 Administration of Cost Accounting Standards.
  - 52.230-7 Proposal Disclosure—Cost Accounting Practice Changes.
  - 52.231 [Reserved]
  - 52.232-1 Payments.
  - 52.232-2 Payments under Fixed-Price Research and Development Contracts.
  - 52.232-3 Payments under Personal Services Contracts.
  - 52.232-4 Payments under Transportation Contracts and Transportation-Related Services Contracts.
  - 52.232-5 Payments under Fixed-Price Construction Contracts.
  - 52.232-6 Payment under Communication Service Contracts with Common Carriers.
  - 52.232-7 Payments under Time-and-Materials and Labor-Hour Contracts.
  - 52.232-8 Discounts for Prompt Payment.
  - 52.232-9 Limitation on Withholding of Payments.
  - 52.232-10 Payments under Fixed-Price Architect-Engineer Contracts.
  - 52.232-11 Extras.
  - 52.232-12 Advance Payments.
  - 52.232-13 Notice of Progress Payments.
  - 52.232-14 Notice of Availability of Progress Payments Exclusively for Small Business Concerns.
  - 52.232-15 Progress Payments Not Included.
  - 52.232-16 Progress Payments.
  - 52.232-17 Interest.
  - 52.232-18 Availability of Funds.
  - 52.232-19 Availability of Funds for the Next Fiscal Year.
  - 52.232-20 Limitation of Cost.
  - 52.232-21 [Reserved]
  - 52.232-22 Limitation of Funds.
  - 52.232-23 Assignment of Claims.
  - 52.232-24 Prohibition of Assignment of Claims.
  - 52.232-25 Prompt Payment.
  - 52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.
  - 52.232-27 Prompt Payment for Construction Contracts.



- 
- |           |  |           |  |
|-----------|--|-----------|--|
| 52.232-28 | Invitation to Propose Performance-Based Payments.                                      | 52.236-19 | Organization and Direction of the Work.                                      |
| 52.232-29 | Terms for Financing of Purchases of Commercial Items.                                  | 52.236-20 | [Reserved]   |
| 52.232-30 | Installment Payments for Commercial Items.   | 52.236-21 | Specifications and Drawings for Construction.                                |
| 52.232-31 | Invitation to Propose Financing Terms.   | 52.236-22 | Design Within Funding Limitations.   |
| 52.232-32 | Performance-Based Payments.  | 52.236-23 | Responsibility of the Architect-Engineer Contractor.                         |
| 52.232-33 | Payment by Electronic Funds Transfer-System for Award Management.                      | 52.236-24 | Work Oversight in Architect-Engineer Contracts.                              |
| 52.232-34 | Payment by Electronic Funds Transfer-Other than System for Award Management.           | 52.236-25 | Requirements for Registration of Designers.                                  |
| 52.232-35 | Designation of Office for Government Receipt of Electronic Funds Transfer Information. | 52.236-26 | Preconstruction Conference.  |
| 52.232-36 | Payment by Third Party.  | 52.236-27 | Site Visit (Construction).   |
| 52.232-37 | Multiple Payment Arrangements.   | 52.236-28 | Preparation of Proposals—Construction.                                       |
| 52.232-38 | Submission of Electronic Funds Transfer Information with Offer.                        | 52.237-1  | Site Visit.  |
| 52.232-39 | Unenforceability of Unauthorized Obligations.  | 52.237-2  | Protection of Government Buildings, Equipment, and Vegetation.               |
| 52.232-40 | Providing Accelerated Payments to Small Business Subcontractors.                       | 52.237-3  | Continuity of Services.  |
| 52.233-1  | Disputes.  | 52.237-4  | Payment by Government to Contractor.   |
| 52.233-2  | Service of Protest.  | 52.237-5  | Payment by Contractor to Government.   |
| 52.233-3  | Protest after Award.   | 52.237-6  | Incremental Payment by Contractor to Government.                             |
| 52.233-4  | Applicable Law for Breach of Contract Claim.   | 52.237-7  | Indemnification and Medical Liability Insurance.                             |
| 52.234-1  | Industrial Resources Developed Under Title III, Defense Production Act.                | 52.237-8  | Restriction on Severance Payments to Foreign Nationals.                      |
| 52.234-2  | Notice of Earned Value Management System-Preaward Integrated Baseline Review.          | 52.237-9  | Waiver of Limitation on Severance Payments to Foreign Nationals.             |
| 52.234-3  | Notice of Earned Value Management System-Postaward Integrated Baseline Review.         | 52.237-10 | Identification of Uncompensated Overtime.                                    |
| 52.234-4  | Earned Value Management System.  | 52.237-11 | Accepting and Dispensing of \$1 Coin.  |
| 52.235    | [Reserved]   | 52.238    | [Reserved]   |
| 52.236-1  | Performance of Work by the Contractor.   | 52.239-1  | Privacy or Security Safeguards.  |
| 52.236-2  | Differing Site Conditions.   | 52.240    | [Reserved]   |
| 52.236-3  | Site Investigation and Conditions Affecting the Work.                                  | 52.241    | Utility Services Provisions and Clauses.                                     |
| 52.236-4  | Physical Data.   | 52.241-1  | Electric Service Territory Compliance Representation.                        |
| 52.236-5  | Material and Workmanship.  | 52.241-2  | Order of Precedence—Utilities.   |
| 52.236-6  | Superintendence by the Contractor.   | 52.241-3  | Scope and Duration of Contract.  |
| 52.236-7  | Permits and Responsibilities.  | 52.241-4  | Change in Class of Service.  |
| 52.236-8  | Other Contracts.   | 52.241-5  | Contractor's Facilities.   |
| 52.236-9  | Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements. | 52.241-6  | Service Provisions.  |
| 52.236-10 | Operations and Storage Areas.  | 52.241-7  | Change in Rates or Terms and Conditions of Service for Regulated Services.   |
| 52.236-11 | Use and Possession Prior to Completion.  | 52.241-8  | Change in Rates or Terms and Conditions of Service for Unregulated Services. |
| 52.236-12 | Cleaning Up.   | 52.241-9  | Connection Charge.   |
| 52.236-13 | Accident Prevention.   | 52.241-10 | Termination Liability.   |
| 52.236-14 | Availability and Use of Utility Services.  | 52.241-11 | Multiple Service Locations.  |
| 52.236-15 | Schedules for Construction Contracts.  | 52.241-12 | Nonrefundable, Nonrecurring Service Charge.                                  |
| 52.236-16 | Quantity Surveys.  | 52.241-13 | Capital Credits.   |
| 52.236-17 | Layout of Work.  | 52.242-1  | Notice of Intent to Disallow Costs.  |
| 52.236-18 | Work Oversight in Cost-Reimbursement Construction Contracts.                           | 52.242-2  | Production Progress Reports.   |
|           |  | 52.242-3  | Penalties for Unallowable Costs.   |
|           |  | 52.242-4  | Certification of Final Indirect Costs.                                       |
|           |  | 52.242-5  | [Reserved]   |
|           |  | 52.242-6  | [Reserved]   |
|           |  | 52.242-7  | [Reserved]   |

- 
- 52.242-8 [Reserved]
  - 52.242-9 [Reserved]
  - 52.242-10 [Reserved]
  - 52.242-11 [Reserved]
  - 52.242-12 [Reserved]
  - 52.242-13 Bankruptcy.
  - 52.242-14 Suspension of Work.
  - 52.242-15 Stop-Work Order.
  - 52.242-16 [Reserved]
  - 52.242-17 Government Delay of Work.
  - 52.243-1 Changes—Fixed-Price.
  - 52.243-2 Changes—Cost-Reimbursement.
  - 52.243-3 Changes—Time-and-Materials or Labor-Hours.
  - 52.243-4 Changes.
  - 52.243-5 Changes and Changed Conditions.
  - 52.243-6 Change Order Accounting.
  - 52.243-7 Notification of Changes.
  - 52.244-1 [Reserved]
  - 52.244-2 Subcontracts.
  - 52.244-3 [Reserved]
  - 52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).
  - 52.244-5 Competition in Subcontracting.
  - 52.244-6 Subcontracts for Commercial Items.
  - 52.245-1 Government Property.
  - 52.245-2 Government Property Installation Operation Services.
  - 52.245-3 [Reserved]
  - 52.245-4 [Reserved]
  - 52.245-5 [Reserved]
  - 52.245-6 [Reserved]
  - 52.245-7 [Reserved]
  - 52.245-8 [Reserved]
  - 52.245-9 Use and Charges.
  - 52.246-1 Contractor Inspection Requirements.
  - 52.246-2 Inspection of Supplies—Fixed-Price.
  - 52.246-3 Inspection of Supplies—Cost-Reimbursement.
  - 52.246-4 Inspection of Services—Fixed-Price.
  - 52.246-5 Inspection of Services—Cost-Reimbursement.
  - 52.246-6 Inspection—Time-and-Material and Labor-Hour.
  - 52.246-7 Inspection of Research and Development—Fixed-Price.
  - 52.246-8 Inspection of Research and Development—Cost-Reimbursement.
  - 52.246-9 Inspection of Research and Development (Short Form).
  - 52.246-10 [Reserved]
  - 52.246-11 Higher-Level Contract Quality Requirement.
  - 52.246-12 Inspection of Construction.
  - 52.246-13 Inspection—Dismantling, Demolition, or Removal of Improvements.
  - 52.246-14 Inspection of Transportation.
  - 52.246-15 Certificate of Conformance.
  - 52.246-16 Responsibility for Supplies.
  - 52.246-17 Warranty of Supplies of a Noncomplex Nature.
  - 52.246-18 Warranty of Supplies of a Complex Nature.
  - 52.246-19 Warranty of Systems and Equipment under Performance Specifications or Design Criteria.
  - 52.246-20 Warranty of Services.
  - 52.246-21 Warranty of Construction.
  - 52.246-22 [Reserved]
  - 52.246-23 Limitation of Liability.
  - 52.246-24 Limitation of Liability—High-Value Items.
  - 52.246-25 Limitation of Liability—Services.
  - 52.247-1 Commercial Bill of Lading Notations.
  - 52.247-2 Permits, Authorities, or Franchises.
  - 52.247-3 Capability to Perform a Contract for the Relocation of a Federal Office.
  - 52.247-4 Inspection of Shipping and Receiving Facilities.
  - 52.247-5 Familiarization with Conditions.
  - 52.247-6 Financial Statement.
  - 52.247-7 Freight Excluded.
  - 52.247-8 Estimated Weights or Quantities Not Guaranteed.
  - 52.247-9 Agreed Weight—General Freight.
  - 52.247-10 Net Weight—General Freight.
  - 52.247-11 Net Weight—Household Goods or Office Furniture.
  - 52.247-12 Supervision, Labor, or Materials.
  - 52.247-13 Accessorial Services—Moving Contracts.
  - 52.247-14 Contractor Responsibility for Receipt of Shipment.
  - 52.247-15 Contractor Responsibility for Loading and Unloading.
  - 52.247-16 Contractor Responsibility for Returning Undelivered Freight.
  - 52.247-17 Charges.
  - 52.247-18 Multiple Shipments.
  - 52.247-19 Stopping in Transit for Partial Unloading.
  - 52.247-20 Estimated Quantities or Weights for Evaluation of Offers.
  - 52.247-21 Contractor Liability for Personal Injury and/or Property Damage.
  - 52.247-22 Contractor Liability for Loss of and/or Damage to Freight other than Household Goods.
  - 52.247-23 Contractor Liability for Loss of and/or Damage to Household Goods.
  - 52.247-24 Advance Notification by the Government.
  - 52.247-25 Government-Furnished Equipment With or Without Operators.
  - 52.247-26 Government Direction and Marking.
  - 52.247-27 Contract Not Affected by Oral Agreement.
  - 52.247-28 Contractor's Invoices.
  - 52.247-29 F.o.b. Origin.
  - 52.247-30 F.o.b. Origin, Contractor's Facility.
  - 52.247-31 F.o.b. Origin, Freight Allowed.
  - 52.247-32 F.o.b. Origin, Freight Prepaid.

- 
- |   |   |
|---|---|
| 52.247-33 F.o.b. Origin, with Differentials.  | 52.247-68 Report of Shipment (REPSHIP).   |
| 52.247-34 F.o.b. Destination.   | 52.248-1 Value Engineering.   |
| 52.247-35 F.o.b. Destination, Within Consignee's Premises.  | 52.248-2 Value Engineering—Architect-Engineer.  |
| 52.247-36 F.a.s. Vessel, Port of Shipment.  | 52.248-3 Value Engineering—Construction.  |
| 52.247-37 F.o.b. Vessel, Port of Shipment.  | 52.249-1 Termination for Convenience of the Government (Fixed-Price) (Short Form).                            |
| 52.247-38 F.o.b. Inland Carrier, Point of Exportation.  | 52.249-2 Termination for Convenience of the Government (Fixed-Price).   |
| 52.247-39 F.o.b. Inland Point, Country of Importation.  | 52.249-3 Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements). |
| 52.247-40 Ex Dock, Pier, or Warehouse, Port of Importation.   | 52.249-4 Termination for Convenience of the Government (Services) (Short Form).                               |
| 52.247-41 C.& f. Destination.   | 52.249-5 Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).        |
| 52.247-42 C.i.f. Destination.   | 52.249-6 Termination (Cost-Reimbursement).  |
| 52.247-43 F.o.b. Designated Air Carrier's Terminal, Point of Exportation.                                       | 52.249-7 Termination (Fixed-Price Architect-Engineer).  |
| 52.247-44 F.o.b. Designated Air Carrier's Terminal, Point of Importation.                                       | 52.249-8 Default (Fixed-Price Supply and Service).  |
| 52.247-45 F.o.b. Origin and/or F.o.b. Destination Evaluation.   | 52.249-9 Default (Fixed-Price Research and Development).  |
| 52.247-46 Shipping Point(s) Used in Evaluation of F.o.b. Origin Offers.   | 52.249-10 Default (Fixed-Price Construction).   |
| 52.247-47 Evaluation—F.o.b. Origin.   | 52.249-11 [Reserved]  |
| 52.247-48 F.o.b. Destination—Evidence of Shipment.  | 52.249-12 Termination (Personal Services).  |
| 52.247-49 Destination Unknown.  | 52.249-13 [Reserved]  |
| 52.247-50 No Evaluation of Transportation Costs.  | 52.249-14 Excusable Delays.   |
| 52.247-51 Evaluation of Export Offers.  | 52.250-1 Indemnification Under Public Law 85-804.   |
| 52.247-52 Clearance and Documentation Requirements—Shipments to DoD Air or Water Terminal Transshipment Points. | 52.250-2 SAFETY Act Coverage Not Applicable.  |
| 52.247-53 Freight Classification Description.   | 52.250-3 SAFETY Act Block Designation/Certification.  |
| 52.247-54 [Reserved]  | 52.250-4 SAFETY Act Pre-qualification Designation Notice.   |
| 52.247-55 F.o.b. Point for Delivery of Government-Furnished Property.   | 52.250-5 SAFETY Act—Equitable Adjustment.   |
| 52.247-56 Transit Arrangements.   | 52.251-1 Government Supply Sources.   |
| 52.247-57 Transportation Transit Privilege Credits.   | 52.251-2 Interagency Fleet Management System Vehicles and Related Services.                                   |
| 52.247-58 Loading, Blocking, and Bracing of Freight Car Shipments.  | 52.252-1 Solicitation Provisions Incorporated by Reference.   |
| 52.247-59 F.o.b. Origin—Carload and Truckload Shipments.  | 52.252-2 Clauses Incorporated by Reference.   |
| 52.247-60 Guaranteed Shipping Characteristics.  | 52.252-3 Alterations in Solicitation.   |
| 52.247-61 F.o.b. Origin—Minimum Size of Shipments.  | 52.252-4 Alterations in Contract.   |
| 52.247-62 Specific Quantities Unknown.  | 52.252-5 Authorized Deviations in Provisions.   |
| 52.247-63 Preference for U.S.-Flag Air Carriers.  | 52.252-6 Authorized Deviations in Clauses.  |
| 52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels.  | 52.253-1 Computer Generated Forms.  |
| 52.247-65 F.o.b. Origin, Prepaid Freight—Small Package Shipments.   |   |
| 52.247-66 Returnable Cylinders.   |   |
| 52.247-67 Submission of Transportation Documents for Audit.   |   |
- Subpart 52.3—Provision and Clause Matrix**
- |        |  |
|--------|--|
| 52.300 | Scope of subpart.                                      |
| 52.301 | Solicitation provisions and contract clauses (Matrix). |

This page intentionally left blank.

commerce methods to submit information or data to the Government.

(End of clause)

#### **52.204-5 Women-Owned Business (Other Than Small Business).**

As prescribed in [4.607\(a\)](#), insert the following provision:

##### WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (OCT 2014)

(a) *Definition.* “Women-owned business concern,” as used in this provision, means a concern 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) *Representation.* [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (c)(1) of FAR [52.219-1](#), *Small Business Program Representations, of this solicitation.*] The offeror represents that it  is a women-owned business concern.

(End of provision)

#### **52.204-6 Unique Entity Identifier.**

As prescribed in [4.607\(b\)](#), insert the following provision:

##### UNIQUE ENTITY IDENTIFIER (OCT 2016)

(a) *Definitions.* As used in this provision—

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

(1) Company legal business name.

(2) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(3) Company physical street address, city, state and Zip Code.

(4) Company mailing address, city, state and Zip Code (if separate from physical).

(5) Company telephone number.

(6) Date the company was started.

(7) Number of employees at your location.

(8) Chief executive officer/key manager.

(9) Line of business (industry).

(10) Company headquarters name and address (reporting relationship within your entity).

(End of provision)

#### **52.204-7 System for Award Management.**

As prescribed in [4.1105\(a\)\(1\)](#), use the following provision:

##### SYSTEM FOR AWARD MANAGEMENT (OCT 2016)

(a) *Definitions.* As used in this provision—

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management records for identifying alternative EFT accounts (see [subpart 32.11](#)) for the same entity.

“Registered in the System for Award Management (SAM) database” means that—

(1) The Offeror has entered all mandatory information, including the unique entity identifier and the EFT indicator, if applicable, the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see [subpart 4.14](#)) into the SAM database;

(2) The offeror has completed the Core, Assertions, and Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The offeror will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record “Active”.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the SAM database prior to award, during performance, and through final payment of any contract, basic agreement, basic

ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “Unique Entity Identifier” followed by the unique entity identifier that identifies the Offeror’s name and address exactly as stated in the offer. The Offeror also shall enter its EFT indicator, if applicable. The unique entity identifier will be used by the Contracting Officer to verify that the Offeror is registered in the SAM database.

(c) If the Offeror does not have a unique entity identifier, it should contact the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier directly to obtain one. The Offeror should be prepared to provide the following information:

- (1) Company legal business name.
- (2) Tradestyle, doing business, or other name by which your entity is commonly recognized.
- (3) Company Physical Street Address, City, State, and Zip Code.
- (4) Company Mailing Address, City, State and Zip Code (if separate from physical).
- (5) Company telephone number.
- (6) Date the company was started.
- (7) Number of employees at your location.
- (8) Chief executive officer/key manager.
- (9) Line of business (industry).
- (10) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the SAM database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) Offerors may obtain information on registration at <https://www.acquisition.gov>.

(End of clause)

*Alternate 1 (Jul 2013).* As prescribed in [4.1105\(a\)\(2\)](#), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision:

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the System for Award Management prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation. If registration prior to award is not possible, the awardee shall be registered in the System for Award Management within 30 days after award or before three days prior to submission of the first invoice, whichever occurs first.

### 52.204-8 Annual Representations and Certifications.

As prescribed in [4.1202\(a\)](#), insert the following provision:

#### ANNUAL REPRESENTATIONS AND CERTIFICATIONS (DEC 2016)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is \_\_\_\_\_  
[insert NAICS code].

(2) The small business size standard is \_\_\_\_\_  
[insert size standard].

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)(1) If the provision at [52.204-7](#), System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the provision at [52.204-7](#) is not included in this solicitation, and the offeror is currently registered in the System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (d) applies.

(ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)(1) The following representations or certifications in SAM are applicable to this solicitation as indicated:

(i) [52.203-2](#), Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—

(A) The acquisition is to be made under the simplified acquisition procedures in [Part 13](#);

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) [52.204-3](#), Taxpayer Identification. This provision applies to solicitations that do not include the provision at [52.204-7](#), System for Award Management.

(iv) [52.204-5](#), Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations—Representation.

(vi) [52.209-5](#), Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vii) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

(viii) [52.214-14](#), Place of Performance—Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(ix) [52.215-6](#), Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(x) [52.219-1](#), Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(xi) [52.219-2](#), Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(xii) [52.222-22](#), Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at [52.222-26](#), Equal Opportunity.

(xiii) [52.222-25](#), Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at [52.222-26](#), Equal Opportunity.

(xiv) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xv) [52.222-57](#), Representation Regarding Compliance with Labor Laws (Executive Order 13673). This provision applies to solicitations expected to exceed \$50 million which are issued from October 25, 2016 through April 24, 2017, and solicitations expected to exceed \$500,000, which are issued after April 24, 2017.

**Note to paragraph (c)(1)(xv):** By a court order issued on October 24, 2016, 52.222-57 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that

time, GSA, DoD and NASA will publish a document in the Federal Register advising the public of the termination of the injunction.

(xvi) [52.223-1](#), Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA–designated items; or include the clause at [52.223-2](#), Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xvii) [52.223-4](#), Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA–designated items.

(xviii) [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation. This provision applies to solicitation that include the clause at [52.204-7](#).

(xix) [52.225-2](#), Buy American Certificate. This provision applies to solicitations containing the clause at [52.225-1](#).

(xx) [52.225-4](#), Buy American—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at [52.225-3](#).

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$77,533, the provision with its Alternate II applies.

(D) If the acquisition value is \$77,533 or more but is less than \$100,000, the provision with its Alternate III applies.

(xxi) [52.225-6](#), Trade Agreements Certificate. This provision applies to solicitations containing the clause at [52.225-5](#).

(xxii) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.

(xxiii) [52.225-25](#), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications. This provision applies to all solicitations.

(xxiv) [52.226-2](#), Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

(2) The following representations or certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

\_\_\_ (i) [52.204-17](#), Ownership or Control of Offeror.

\_\_\_ (ii) [52.204-20](#), Predecessor of Offeror.

\_\_\_ (iii) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.

\_\_\_ (iv) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Main-

tenance, Calibration, or Repair of Certain Equipment- Certification.

\_\_ (v) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

\_\_ (vi) [52.223-9](#), with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

\_\_ (vii) [52.227-6](#), Royalty Information.

\_\_ (A) Basic.

\_\_ (B) Alternate I.

\_\_ (viii) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)); except for the changes identified below [*offeror to insert changes, identifying change by clause number, title, date*]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR CLAUSE #	TITLE	DATE	CHANGE
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

(End of provision)

#### 52.204-9 Personal Identity Verification of Contractor Personnel.

As prescribed in [4.1303](#), insert the following clause:

PERSONAL IDENTITY VERIFICATION OF CONTRACTOR  
PERSONNEL (JAN 2011)

(a) The Contractor shall comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor shall account for all forms of Government-provided identification issued to the Contractor employ-

ees in connection with performance under this contract. The Contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

(1) When no longer needed for contract performance.

(2) Upon completion of the Contractor employee's employment.

(3) Upon contract completion or termination.

(c) The Contracting Officer may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. It shall be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved in writing by the Contracting Officer.

(End of clause)

#### 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards.

As prescribed in [4.1403](#)(a), insert the following clause:

REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER  
SUBCONTRACT AWARDS (OCT 2016)

(a) *Definitions.* As used in this clause:

“Executive” means officers, managing partners, or any other employees in management positions.

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

“Month of award” means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board's Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.



(3) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information

(d)(1) *Executive compensation of the prime contractor.* As a part of its annual registration requirement in the System for Award Management (SAM) database (FAR provision [52.204-7](#)), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(2) *First-tier subcontract information.* Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, the Contractor shall report the following information at <http://www.frs.gov> for that first-tier subcon-

tract. (The Contractor shall follow the instructions at <http://www.frs.gov> to report the data.)

(i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) *Executive compensation of the first-tier subcontractor.* Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor's preceding completed fiscal year at <http://www.frs.gov>, if—

(i) In the subcontractor's preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section

6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$30,000 to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at <http://www.fsrs.gov> will be pre-populated with some information from SAM and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting officer. If the SAM database information is incorrect, the contractor is responsible for correcting this information.

(End of clause)

#### 52.204-11 [Reserved]

#### 52.204-12 Unique Entity Identifier Maintenance.

As prescribed in [4.607\(c\)](#), insert the following clause:

UNIQUE ENTITY IDENTIFIER MAINTENANCE (OCT 2016)

(a) *Definition.* “Unique entity identifier”, as used in this clause, means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b) The Contractor shall ensure that the unique entity identifier is maintained with the entity designated at the System for Award Management (SAM) for establishment of the unique entity identifier throughout the life of the contract. The Contractor shall communicate any change to the unique entity identifier to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the unique entity identifier does not necessarily require a novation be accomplished.

(End of clause)

#### 52.204-13 System for Award Management Maintenance.

As prescribed in [4.1105\(b\)](#), use the following clause:

SYSTEM FOR AWARD MANAGEMENT MAINTENANCE.

(OCT 2016)

(a) *Definitions.* As used in this clause—

“Electronic Funds Transfer (EFT) indicator” means a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the commercial, nonprofit, or Government entity to establish additional System for Award Management (SAM) records for identifying alternative EFT accounts (see subpart [32.11](#)) for the same entity.

“Registered in the System for Award Management (SAM) database” means that—

(1) The Contractor has entered all mandatory information, including the unique entity identifier and the EFT indicator (if applicable), the Commercial and Government Entity (CAGE) code, as well as data required by the Federal Funding Accountability and Transparency Act of 2006 (see [subpart 4.14](#)), into the SAM database;

(2) The Contractor has completed the Core, Assertions, Representations and Certifications, and Points of Contact sections of the registration in the SAM database;

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS). The Contractor will be required to provide consent for TIN validation to the Government as a part of the SAM registration process; and

(4) The Government has marked the record “Active”.

“System for Award Management (SAM)” means the primary Government repository for prospective Federal awardee and Federal awardee information and the centralized Government system for certain contracting, grants, and other assistance-related processes. It includes—

(1) Data collected from prospective Federal awardees required for the conduct of business with the Government;

(2) Prospective contractor-submitted annual representations and certifications in accordance with FAR [subpart 4.12](#); and

(3) Identification of those parties excluded from receiving Federal contracts, certain subcontracts, and certain types of Federal financial and non-financial assistance and benefits.

“Unique entity identifier” means a number or other identifier used to identify a specific commercial, nonprofit, or Government entity. See [www.sam.gov](http://www.sam.gov) for the designated entity for establishing unique entity identifiers.

(b) The Contractor is responsible for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the SAM database to ensure it is current, accurate and

complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(c) (1) (i) If a Contractor has legally changed its business name, *doing business as* name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart [42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to—

(A) Change the name in the SAM database;

(B) Comply with the requirements of subpart [42.12](#) of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (c)(1)(i) of this clause, or fails to perform the agreement at paragraph (c)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see FAR subpart [32.8](#), Assignment of Claims). Assignees shall be separately registered in the SAM. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of this contract.

(3) The Contractor shall ensure that the unique entity identifier is maintained with the entity designated at [www.sam.gov](http://www.sam.gov) for establishment of the unique entity identifier throughout the life of the contract. The Contractor shall communicate any change to the unique entity identifier to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the unique entity identifier does not necessarily require a novation be accomplished.

(d) Contractors may obtain additional information on registration and annual confirmation requirements at <https://www.acquisition.gov>.

(End of clause)

#### 52.204-14 Service Contract Reporting Requirements.

As prescribed in [4.1705\(a\)](#), insert the following clause:

#### SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016)

##### (a) Definition.

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor's supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor's general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed under this contract during the preceding Government fiscal year (October 1-September 30).

(c) The Contractor shall report the following information:

(1) Contract number and, as applicable, order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the contract.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at [www.sam.gov](http://www.sam.gov). (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the contracting officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor's failure to comply with the reporting requirements a part of the Contractor's performance information under FAR [subpart 42.15](#).

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f)(1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in [4.1703\(a\)\(2\)](#), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier); and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as

required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

(End of clause)

#### **52.204-15 Service Contract Reporting Requirements for Indefinite-Delivery Contracts.**

As prescribed in [4.1705\(b\)](#), insert the following clause:

##### SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (OCT 2016)

###### (a) Definitions.

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect costs.

(b) The Contractor shall report, in accordance with paragraphs (c) and (d) of this clause, annually by October 31, for services performed during the preceding Government fiscal year (October 1-September 30) under this contract for orders that exceed the thresholds established in [4.1703\(a\)\(2\)](#).

(c) The Contractor shall report the following information:

(1) Contract number and order number.

(2) The total dollar amount invoiced for services performed during the previous Government fiscal year under the order.

(3) The number of Contractor direct labor hours expended on the services performed during the previous Government fiscal year.

(4) Data reported by subcontractors under paragraph (f) of this clause.

(d) The information required in paragraph (c) of this clause shall be submitted via the internet at [www.sam.gov](http://www.sam.gov). (See SAM User Guide). If the Contractor fails to submit the report in a timely manner, the Contracting Officer will exercise appropriate contractual remedies. In addition, the Contracting Officer will make the Contractor’s failure to comply with the reporting requirements a part of the Contractor’s performance information under FAR [subpart 42.15](#).

(e) Agencies will review Contractor reported information for reasonableness and consistency with available contract information. In the event the agency believes that revisions to the Contractor reported information are warranted, the agency will notify the Contractor no later than November 15. By November 30, the Contractor shall revise the report, or document its rationale for the agency.

(f)(1) The Contractor shall require each first-tier subcontractor providing services under this contract, with subcontract(s) each valued at or above the thresholds set forth in

[4.1703\(a\)\(2\)](#), to provide the following detailed information to the Contractor in sufficient time to submit the report:

(i) Subcontract number (including subcontractor name and unique entity identifier), and

(ii) The number of first-tier subcontractor direct-labor hours expended on the services performed during the previous Government fiscal year.

(2) The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 743 of Division C of the Consolidated Appropriations Act, 2010.

(End of clause)

#### **52.204-16 Commercial and Government Entity Code Reporting.**

As prescribed in [4.1804\(a\)](#), use the following provision:

##### COMMERCIAL AND GOVERNMENT ENTITY CODE REPORTING (JUL 2016)

(a) *Definition.* As used in this provision –

“Commercial and Government Entity (CAGE) code” means–

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(b) The Offeror shall enter its CAGE code in its offer with its name and address or otherwise include it prominently in its proposal. The CAGE code entered must be for that name and address. Enter “CAGE” before the number. The CAGE code is required prior to award.

(c) CAGE codes may be obtained via–

(1) Registration in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov). If the Offeror is located in the United States or its outlying areas and does not already have a CAGE code assigned, the DLA Commercial and Government Entity (CAGE) Branch will assign a CAGE code as a part of the SAM registration process. SAM registrants located outside the United States and its outlying areas shall obtain a NCAGE code prior to registration in SAM (see paragraph (c)(3) of this provision).

(2) *The DLA Contractor and Government Entity (CAGE) Branch.* If registration in SAM is not required for the subject procurement, and the offeror does not otherwise register in SAM, an offeror located in the United States or its out-

lying areas may request that a CAGE code be assigned by submitting a request at <https://cage.dla.mil>.

(3) *The appropriate country codification bureau.* Entities located outside the United States and its outlying areas may obtain an NCAGE code by contacting the Codification Bureau in the foreign entity's country if that country is a member of NATO or a sponsored nation. NCAGE codes may be obtained from the NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> if the foreign entity's country is not a member of NATO or a sponsored nation. Points of contact for codification bureaus, as well as additional information on obtaining NCAGE codes, are available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>.

(d) Additional guidance for establishing and maintaining CAGE codes is available at <https://cage.dla.mil>.

(e) When a CAGE Code is required for the immediate owner and/or the highest-level owner by [52.204-17](#) or [52.212-3\(p\)](#), the Offeror shall obtain the respective CAGE Code from that entity to supply the CAGE Code to the Government.

(f) Do not delay submission of the offer pending receipt of a CAGE code.

(End of provision)

#### 52.204-17 Ownership or Control of Offeror.

As prescribed in [4.1804\(b\)](#), use the following provision:

##### OWNERSHIP OR CONTROL OF OFFEROR (JUL 2016)

(a) *Definitions.* As used in this provision—  
“Commercial and Government Entity (CAGE) code” means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

“Highest-level owner” means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

“Immediate owner” means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests

among family members, shared facilities and equipment, and the common use of employees.

(b) The Offeror represents that it  has or  does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (c) and if applicable, paragraph (d) of this provision for each participant in the joint venture.

(c) If the Offeror indicates “has” in paragraph (b) of this provision, enter the following information:

Immediate owner CAGE code: \_\_\_\_\_

Immediate owner legal name: \_\_\_\_\_

(Do not use a “doing business as” name)

Is the immediate owner owned or controlled by another entity?  Yes or  No.

(d) If the Offeror indicates “yes” in paragraph (c) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: \_\_\_\_\_

Highest-level owner legal name: \_\_\_\_\_

(Do not use a “doing business as” name)

(End of provision)

#### 52.204-18 Commercial and Government Entity Code Maintenance.

As prescribed in [4.1804\(c\)](#), use the following clause:

##### COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (JUL 2016)

(a) *Definition.* As used in this clause—  
“Commercial and Government Entity (CAGE) code” means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract. For contractors registered in the System for Award Management (SAM), the DLA Commercial and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with [subpart 42.12](#). The contractor shall communicate any change to the CAGE code to the contracting

officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at <https://cage.dla.mil>. Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>) or NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> to request CAGE changes.

(e) Additional guidance for maintaining CAGE codes is available at <https://cage.dla.mil>.

(End of clause)

#### 52.204-19 Incorporation by Reference of Representations and Certifications.

As prescribed in 4.1202(b), insert the following clause.

##### INCORPORATION BY REFERENCE OF REPRESENTATIONS AND CERTIFICATIONS (DEC 2014)

The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(End of clause)

#### 52.204-20 Predecessor of Offeror.

As prescribed in 4.1804(d), insert the following provision:

##### PREDECESSOR OF OFFEROR (JUL 2016)

(a) *Definitions.* As used in this provision—

“Commercial and Government Entity (CAGE) code” means—

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

“Predecessor” means an entity that is replaced by a successor and includes any predecessors of the predecessor.

“Successor” means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

(b) The Offeror represents that it  is or  is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(c) If the Offeror has indicated “is” in paragraph (b) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: \_\_\_\_\_ (or mark “Unknown”)

Predecessor legal name: \_\_\_\_\_

(Do not use a “doing business as” name)

(End of provision)

#### 52.204-21 Basic Safeguarding of Covered Contractor Information Systems.

As prescribed in 4.1903, insert the following clause:

##### BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION SYSTEMS (JUN 2016)

(a) *Definitions.* As used in this clause—

“Covered contractor information system” means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

“Federal contract information” means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

“Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

“Safeguarding” means measures or controls that are prescribed to protect information systems.

(b) *Safeguarding requirements and procedures.* (1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor

information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (*i.e.*, information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) *Other requirements.* This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

**52.205 [Reserved]**

**52.206 [Reserved]**

This page intentionally left blank.



(1) The agency’s evaluation of the significant weak or deficient factors in the debriefed offeror’s offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

**52.212-2 Evaluation—Commercial Items.**

As prescribed in [12.301\(c\)](#), the Contracting Officer may insert a provision substantially as follows:

EVALUATION—COMMERCIAL ITEMS (OCT 2014)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

*[Contracting Officer shall insert the significant evaluation factors, such as (i) technical capability of the item offered to meet the Government requirement; (ii) price; (iii) past performance (see FAR [15.304](#)); and include them in the relative order of importance of the evaluation factors, such as in descending order of importance.]*

Technical and past performance, when combined, are \_\_\_\_\_ *[Contracting Officer state, in accordance with FAR [15.304](#), the relative importance of all other evaluation factors, when combined, when compared to price.]*

(b) *Options.* The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before

the offer’s specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

**52.212-3 Offeror Representations and Certifications—Commercial Items.**

As prescribed in [12.301\(b\)\(2\)](#), insert the following provision:

OFFEROR REPRESENTATIONS AND CERTIFICATIONS—  
COMMERCIAL ITEMS (DEC 2016)

The Offeror shall complete only paragraph (b) of this provision if the Offeror has completed the annual representations and certification electronically via the System for Award Management (SAM) website located at <https://www.sam.gov/portal>. If the Offeror has not completed the annual representations and certifications electronically, the Offeror shall complete only paragraphs (c) through (t) of this provision.

(a) *Definitions.* As used in this provision—

“Administrative merits determination” means certain notices or findings of labor law violations issued by an enforcement agency following an investigation. An administrative merits determination may be final or be subject to appeal or further review. To determine whether a particular notice or finding is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“Arbitral award or decision” means an arbitrator or arbitral panel determination that a labor law violation occurred, or that enjoined or restrained a violation of labor law. It includes an award or decision that is not final or is subject to being confirmed, modified, or vacated by a court, and includes an award or decision resulting from private or confidential proceedings. To determine whether a particular award or decision is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“Civil judgment” means—

(1) In paragraph (h) of this provision: A judgment or finding of a civil offense by any court of competent jurisdiction.

(2) In paragraph (s) of this provision: Any judgment or order entered by any Federal or State court in which the court determined that a labor law violation occurred, or enjoined or restrained a violation of labor law. It includes a judgment or order that is not final or is subject to appeal. To determine whether a particular judgment or order is covered by this definition, it is necessary to consult section II.B. in the DOL Guidance.

“DOL Guidance” means the Department of Labor (DOL) Guidance entitled: “Guidance for Executive Order 13673,

‘Fair Pay and Safe Workplaces’”. The DOL Guidance was initially published in the Federal Register on August 25, 2016, and significant revisions will be published for public comment in the *Federal Register*. The DOL Guidance and subsequent versions can be obtained from [www.dol.gov/fairpayandsafeworkplaces](http://www.dol.gov/fairpayandsafeworkplaces).

“Economically disadvantaged women-owned small business (EDWOSB) concern” means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business eligible under the WOSB Program.

“Enforcement agency” means any agency granted authority to enforce the Federal labor laws. It includes the enforcement components of DOL (Wage and Hour Division, Office of Federal Contract Compliance Programs, and Occupational Safety and Health Administration), the Equal Employment Opportunity Commission, the Occupational Safety and Health Review Commission, and the National Labor Relations Board. It also means a State agency designated to administer an OSHA-approved State Plan, but only to the extent that the State agency is acting in its capacity as administrator of such plan. It does not include other Federal agencies which, in their capacity as contracting agencies, conduct investigations of potential labor law violations. The enforcement agencies associated with each labor law under E.O. 13673 are—

- (1) Department of Labor Wage and Hour Division (WHD) for—
  - (i) The Fair Labor Standards Act;
  - (ii) The Migrant and Seasonal Agricultural Worker Protection Act;
  - (iii) [40 U.S.C. chapter 31](#), subchapter IV, formerly known as the Davis-Bacon Act;
  - (iv) [41 U.S.C. chapter 67](#), formerly known as the Service Contract Act;
  - (v) The Family and Medical Leave Act; and
  - (vi) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors);
- (2) Department of Labor Occupational Safety and Health Administration (OSHA) for—
  - (i) The Occupational Safety and Health Act of 1970; and
  - (ii) OSHA-approved State Plans;
- (3) Department of Labor Office of Federal Contract Compliance Programs (OFCCP) for—
  - (i) Section 503 of the Rehabilitation Act of 1973;
  - (ii) The Vietnam Era Veterans’ Readjustment Assistance Act of 1972 and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974; and

(iii) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity);

(4) National Labor Relations Board (NLRB) for the National Labor Relations Act; and

(5) Equal Employment Opportunity Commission (EEOC) for—

(i) Title VII of the Civil Rights Act of 1964;

(ii) The Americans with Disabilities Act of 1990;

(iii) The Age Discrimination in Employment Act of 1967; and

(iv) Section 6(d) of the Fair Labor Standards Act (Equal Pay Act).

“Forced or indentured child labor” means all work or service—

(6) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(7) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

“Highest-level owner” means the entity that owns or controls an immediate owner of the offeror, or that owns or controls one or more entities that control an immediate owner of the offeror. No entity owns or exercises control of the highest level owner.

“Immediate owner” means an entity, other than the offeror, that has direct control of the offeror. Indicators of control include, but are not limited to, one or more of the following: ownership or interlocking management, identity of interests among family members, shared facilities and equipment, and the common use of employees.

“Inverted domestic corporation”, means a foreign incorporated entity that meets the definition of an inverted domestic corporation under [6 U.S.C. 395\(b\)](#), applied in accordance with the rules and definitions of [6 U.S.C. 395\(c\)](#).

“Labor compliance agreement” means an agreement entered into between a contractor or subcontractor and an enforcement agency to address appropriate remedial measures, compliance assistance, steps to resolve issues to increase compliance with the labor laws, or other related matters.

“Labor laws” means the following labor laws and E.O.s:

(1) The Fair Labor Standards Act.

(2) The Occupational Safety and Health Act (OSHA) of 1970.

(3) The Migrant and Seasonal Agricultural Worker Protection Act.

(4) The National Labor Relations Act.

(5) [40 U.S.C. chapter 31](#), subchapter IV, formerly known as the Davis-Bacon Act.

(6) [41 U.S.C. chapter 67](#), formerly known as the Service Contract Act.

(7) E.O. 11246 of September 24, 1965 (Equal Employment Opportunity).

(8) Section 503 of the Rehabilitation Act of 1973.

(9) The Vietnam Era Veterans' Readjustment Assistance Act of 1972 and the Vietnam Era Veterans' Readjustment Assistance Act of 1974.

(10) The Family and Medical Leave Act.

(11) Title VII of the Civil Rights Act of 1964.

(12) The Americans with Disabilities Act of 1990.

(13) The Age Discrimination in Employment Act of 1967.

(14) E.O. 13658 of February 12, 2014 (Establishing a Minimum Wage for Contractors).

(15) Equivalent State laws as defined in the DOL Guidance. (The only equivalent State laws implemented in the FAR are OSHA-approved State Plans, which can be found at [www.osha.gov/dcsp/osp/approved\\_state\\_plans.html](http://www.osha.gov/dcsp/osp/approved_state_plans.html)).

“Labor law decision” means an administrative merits determination, arbitral award or decision, or civil judgment, which resulted from a violation of one or more of the laws listed in the definition of “labor laws”.

“Manufactured end product” means any end product in product and service codes (PSCs) 1000-9999, except—

(1) PSC 5510, Lumber and Related Basic Wood Materials;

(2) Product or Service Group (PSG) 87, Agricultural Supplies;

(3) PSG 88, Live Animals;

(4) PSG 89, Subsistence;

(5) PSC 9410, Crude Grades of Plant Materials;

(6) PSC 9430, Miscellaneous Crude Animal Products, Inedible;

(7) PSC 9440, Miscellaneous Crude Agricultural and Forestry Products;

(8) PSC 9610, Ores;

(9) PSC 9620, Minerals, Natural and Synthetic; and

(10) PSC 9630, Additive Metal Materials.

“Place of manufacture” means the place where an end product is assembled out of components, or otherwise made or processed from raw materials into the finished product that is to be provided to the Government. If a product is disassembled and reassembled, the place of reassembly is not the place of manufacture.

“Predecessor” means an entity that is replaced by a successor and includes any predecessors of the predecessor.

“Restricted business operations” means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not

include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

(1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;

(2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;

(3) Consist of providing goods or services to marginalized populations of Sudan;

(4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;

(5) Consist of providing goods or services that are used only to promote health or education; or

(6) Have been voluntarily suspended.

“Sensitive technology”—

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically—

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](http://www.usc.gov/statutes/0301/38usc/38usc1702b3.html)).

“Service-disabled veteran-owned small business concern”—

(1) Means a small business concern—

(i) 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 service-disabled veterans; and

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

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101\(2\)](http://www.usc.gov/statutes/0301/38usc/38usc1012.html), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](http://www.usc.gov/statutes/0301/38usc/38usc10116.html).

“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 size standards in this solicitation.

“Small disadvantaged business concern”, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

“Subsidiary” means an entity in which more than 50 percent of the entity is owned—

(1) Directly by a parent corporation; or

(2) Through another subsidiary of a parent corporation.

“Veteran-owned small business concern” means a small business concern—

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at [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; and

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

“Successor” means an entity that has replaced a predecessor by acquiring the assets and carrying out the affairs of the predecessor under a new name (often through acquisition or merger). The term “successor” does not include new offices/divisions of the same company or a company that only changes its name. The extent of the responsibility of the successor for the liabilities of the predecessor may vary, depending on State law and specific circumstances.

“Women-owned business concern” means a concern which 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 its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

“Women-owned small business concern” means a small business concern—

(1) 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

(2) Whose management and daily business operations are controlled by one or more women.

“Women-owned small business (WOSB) concern eligible under the WOSB Program” (in accordance with 13 CFR part 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

**Note to paragraph (a):** By a court order issued on October 24, 2016, the following definitions in this paragraph (a) are enjoined indefinitely as of the date of the order: “Administrative merits determination”, “Arbitral award or decision”, paragraph (2) of “Civil judgment”, “DOL Guidance”, “Enforcement agency”, “Labor compliance agreement”, “Labor laws”, and “Labor law decision”. The enjoined definitions will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the *Federal Register* advising the public of the termination of the injunction.

(b)(1) *Annual Representations and Certifications.* Any changes provided by the offeror in paragraph (b)(2) of this provision do not automatically change the representations and certifications posted on the SAM website.

(2) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <http://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of this offer that the representations and certifications currently posted electronically at FAR [52.212-3](#), Offeror Representations and Certifications—Commercial Items, have been entered or updated in the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR [4.1201](#)), except for paragraphs \_\_\_\_\_.

[Offeror to identify the applicable paragraphs at (c) through (t) of this provision that the offeror has completed for the purposes of this solicitation only, if any.]

*These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.*

*Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted electronically on SAM.]*

(c) Offerors must complete the following representations when the resulting contract will be performed in the United States or its outlying areas. Check all that apply.

(1) *Small business concern.* The offeror represents as part of its offer that it  is,  is not a small business concern.

(2) *Veteran-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents as part of its offer that it  is,  is not a veteran-owned small business concern.

(3) *Service-disabled veteran-owned small business concern.* [Complete only if the offeror represented itself as a

*veteran-owned small business concern in paragraph (c)(2) of this provision.*] The offeror represents as part of its offer that it  is,  is not a service-disabled veteran-owned small business concern.

(4) *Small disadvantaged business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, that it  is,  is not a small disadvantaged business concern as defined in 13 CFR 124.1002.

(5) *Women-owned small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it  is,  is not a women-owned small business concern.

(6) WOSB concern eligible under the WOSB Program. [Complete only if the offeror represented itself as a women-owned small business concern in paragraph (c)(5) of this provision.] The offeror represents that—

(i) It  is,  is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(6)(i) of this provision is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. [The offeror shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(7) Economically disadvantaged women-owned small business (EDWOSB) concern. [Complete only if the offeror represented itself as a WOSB concern eligible under the WOSB Program in (c)(6) of this provision.] The offeror represents that—

(i) It  is,  is not an EDWOSB concern, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It  is,  is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (c)(7)(i) of this provision is accurate for each EDWOSB concern participating in the joint venture. [The offeror shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

**NOTE:** Complete paragraphs (c)(8) and (c)(9) only if this solicitation is expected to exceed the simplified acquisition threshold.

(8) *Women-owned business concern (other than small business concern).* [Complete only if the offeror is a women-owned business concern and did not represent itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents that it  is a women-owned business concern.

(9) *Tie bid priority for labor surplus area concerns.* If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price: \_\_\_\_\_

(10) *HUBZone small business concern.* [Complete only if the offeror represented itself as a small business concern in paragraph (c)(1) of this provision.] The offeror represents, as part of its offer, that—

(i) It  is,  is not a 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 changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR Part 126; and

(ii) It  is,  is not a HUBZone joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (c)(10)(i) of this provision is accurate for each HUBZone small business concern participating in the HUBZone joint venture. [The offeror shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.] Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

(d) *Representations required to implement provisions of Executive Order 11246—(1) Previous contracts and compliance.* The offeror represents that—

(i) It  has,  has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and

(ii) It  has,  has not filed all required compliance reports.

(2) *Affirmative Action Compliance.* The offeror represents that—

(i) It  has developed and has on file,  has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or

(ii) It  has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) *Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352).* (Applies only if the contract is expected to exceed \$150,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that

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 award of any resultant contract. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(f) *Buy American Certificate.* (Applies only if the clause at Federal Acquisition Regulation (FAR) [52.225-1](#), Buy American—Supplies, is included in this solicitation.)

(1) The offeror certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product and that for other than COTS items, 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, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Supplies.”

(2) Foreign End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(3) The Government will evaluate offers in accordance with the policies and procedures of FAR [Part 25](#).

(g)(1) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate.* (Applies only if the clause at FAR [52.225-3](#), Buy American—Free Trade Agreements—Israeli Trade Act, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(1)(ii) or (g)(1)(iii) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially avail-

able off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (g)(1)(ii) of this provision) as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

Other Foreign End Products:

Line Item No.	Country of Origin
_____	_____
_____	_____
_____	_____

[List as necessary]

(iv) The Government will evaluate offers in accordance with the policies and procedures of FAR [Part 25](#).

(2) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate I.* If Alternate I to the clause at FAR [52.225-3](#) is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

**Line Item No.**

_____
_____
_____

[List as necessary]

(3) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate II.* If Alternate II to the clause at FAR 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Canadian or Israeli End Products:

<b>Line Item No.</b>	<b>Country of Origin</b>
_____	_____
_____	_____
_____	_____

[List as necessary]

(4) *Buy American—Free Trade Agreements—Israeli Trade Act Certificate, Alternate III.* If Alternate III to the clause at 52.225-3 is included in this solicitation, substitute the following paragraph (g)(1)(ii) for paragraph (g)(1)(ii) of the basic provision:

(g)(1)(ii) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American-Free Trade Agreements-Israli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

<b>Line Item No.</b>	<b>Country of Origin</b>
_____	_____
_____	_____
_____	_____

[List as necessary]

(5) *Trade Agreements Certificate.* (Applies only if the clause at FAR 52.225-5, Trade Agreements, is included in this solicitation.)

(i) The offeror certifies that each end product, except those listed in paragraph (g)(5)(ii) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(ii) The offeror shall list as other end products those end products that are not U.S.-made or designated country end products.

Other End Products:

<b>Line Item No.</b>	<b>Country of Origin</b>
_____	_____
_____	_____
_____	_____

[List as necessary]

(iii) The Government will evaluate offers in accordance with the policies and procedures of FAR Part 25. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for such products are insufficient to fulfill the requirements of the solicitation.

(h) *Certification Regarding Responsibility Matters (Executive Order 12689).* (Applies only if the contract value is expected to exceed the simplified acquisition threshold.) The offeror certifies, to the best of its knowledge and belief, that the offeror and/or any of its principals—

(1)  Are,  are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(2)  Have,  have not, within a three-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 Federal, state or local government 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, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3)  Are,  are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses enumerated in paragraph (h)(2) of this clause; and

(4)  Have,  have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

(i) Taxes are considered delinquent if both of the following criteria apply:

(A) *The tax liability is finally determined.* The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(B) *The taxpayer is delinquent in making payment.* A taxpayer is delinquent if the taxpayer has failed to pay

the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(ii) *Examples.* (A) The taxpayer has received a statutory notice of deficiency, under I.R.C. §6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(B) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. §6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(C) The taxpayer has entered into an installment agreement pursuant to I.R.C. §6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(D) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. §362 (the Bankruptcy Code).

(i) Certification Regarding Knowledge of Child Labor for *Listed End Products* (Executive Order 13126). [*The Contracting Officer must list in paragraph (i)(1) any end products being acquired under this solicitation that are included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, unless excluded at 22.1503(b).*]

(1) *Listed end products.*

Listed End Product	Listed Countries of Origin
_____	_____
_____	_____

(2) *Certification.* [*If the Contracting Officer has identified end products and countries of origin in paragraph (i)(1) of this provision, then the offeror must certify to either (i)(2)(i) or (i)(2)(ii) by checking the appropriate block.*]

(i) The offeror will not supply any end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product.

(ii) The offeror may supply an end product listed in paragraph (i)(1) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor

was used to mine, produce, or manufacture any such end product furnished under this contract. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(j) *Place of manufacture.* (Does not apply unless the solicitation is predominantly for the acquisition of manufactured end products.) For statistical purposes only, the offeror shall indicate whether the place of manufacture of the end products it expects to provide in response to this solicitation is predominantly—

(1)  In the United States (Check this box if the total anticipated price of offered end products manufactured in the United States exceeds the total anticipated price of offered end products manufactured outside the United States); or

(2)  Outside the United States.

(k) *Certificates regarding exemptions from the application of the Service Contract Labor Standards* (Certification by the offeror as to its compliance with respect to the contract also constitutes its certification as to compliance by its subcontractor if it subcontracts out the exempt services.) [*The contracting officer is to check a box to indicate if paragraph (k)(1) or (k)(2) applies.*]

(1) Maintenance, calibration, or repair of certain equipment as described in FAR [22.1003-4\(c\)\(1\)](#). The offeror  does  does not certify that—

(i) The items of equipment to be serviced under this contract are used regularly for other than Governmental purposes and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontract) in substantial quantities to the general public in the course of normal business operations;

(ii) The services will be furnished at prices which are, or are based on, established catalog or market prices (see FAR [22.1003-4\(c\)\(2\)\(ii\)](#)) for the maintenance, calibration, or repair of such equipment; and

(iii) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract will be the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(2) Certain services as described in FAR [22.1003-4\(d\)\(1\)](#). The offeror  does  does not certify that—

(i) The services under the contract are offered and sold regularly to non-Governmental customers, and are provided by the offeror (or subcontractor in the case of an exempt subcontract) to the general public in substantial quantities in the course of normal business operations;

(ii) The contract services will be furnished at prices that are, or are based on, established catalog or market prices (see FAR [22.1003-4\(d\)\(2\)\(iii\)](#));

(iii) Each service employee who will perform the services under the contract will spend only a small portion of his or her time (a monthly average of less than 20 percent of the available hours on an annualized basis, or less than 20 percent of available hours during the contract period if the contract period is less than a month) servicing the Government contract; and



(iv) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract is the same as that used for these employees and equivalent employees servicing commercial customers.

(3) If paragraph (k)(1) or (k)(2) of this clause applies—

(i) If the offeror does not certify to the conditions in paragraph (k)(1) or (k)(2) and the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation, the offeror shall notify the Contracting Officer as soon as possible; and

(ii) The Contracting Officer may not make an award to the offeror if the offeror fails to execute the certification in paragraph (k)(1) or (k)(2) of this clause or to contact the Contracting Officer as required in paragraph (k)(3)(i) of this clause.

(l) *Taxpayer Identification Number (TIN)* ([26 U.S.C. 6109](#), [31 U.S.C. 7701](#)). (Not applicable if the offeror is required to provide this information to the SAM database to be eligible for award.)

(1) All offerors must submit the information required in paragraphs (l)(3) through (l)(5) of this provision to comply with debt collection requirements of [31 U.S.C. 7701\(c\)](#) and [3325\(d\)](#), reporting requirements of [26 U.S.C. 6041](#), [6041A](#), and [6050M](#), and implementing regulations issued by the Internal Revenue Service (IRS).

(2) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government ([31 U.S.C. 7701\(C\)\(3\)](#)). If the resulting contract is subject to the payment reporting requirements described in FAR [4.904](#), the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(3) *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 United States and does not have an office or place of business or a fiscal paying agent in the United States;
- Offeror is an agency or instrumentality of a foreign government;
- Offeror is an agency or instrumentality of the Federal Government.

(4) *Type of organization*.

- Sole proprietorship;
- Partnership;
- Corporate entity (not tax-exempt);
- Corporate entity (tax-exempt);
- Government entity (Federal, State, or local);
- Foreign government;
- International organization per 26 CFR 1.6049-4;
- Other \_\_\_\_\_.

(5) *Common parent*.

- Offeror is not owned or controlled by a common parent;
- Name and TIN of common parent:  
Name \_\_\_\_\_.  
TIN \_\_\_\_\_.

(m) *Restricted business operations in Sudan*. By submission of its offer, the offeror certifies that the offeror does not conduct any restricted business operations in Sudan.

(n) *Prohibition on Contracting with Inverted Domestic Corporations*. (1) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at [9.108-2\(b\)](#) applies or the requirement is waived in accordance with the procedures at [9.108-4](#).

(2) *Representation*. The Offeror represents that—

- (i) It  is,  is not an inverted domestic corporation; and
- (ii) It  is,  is not a subsidiary of an inverted domestic corporation.

(o) *Prohibition on contracting with entities engaging in certain activities or transactions relating to Iran*. (1) The offeror shall e-mail questions concerning sensitive technology to the Department of State at [CISADA106@state.gov](mailto:CISADA106@state.gov).

(2) *Representation and Certifications*. Unless a waiver is granted or an exception applies as provided in paragraph (o)(3) of this provision, by submission of its offer, the offeror—

(i) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; and

(iii) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds \$3,500 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>).

(3) The representation and certification requirements of paragraph (o)(2) of this provision do not apply if—

(i) This solicitation includes a trade agreements certification (e.g., [52.212-3\(g\)](#)) or a comparable agency provision; and

(ii) The offeror has certified that all the offered products to be supplied are designated country end products.

(p) *Ownership or Control of Offeror.* (Applies in all solicitations when there is a requirement to be registered in SAM or a requirement to have a unique entity identifier in the solicitation.)

(1) The Offeror represents that it  has or  does not have an immediate owner. If the Offeror has more than one immediate owner (such as a joint venture), then the Offeror shall respond to paragraph (2) and if applicable, paragraph (3) of this provision for each participant in the joint venture.

(2) If the Offeror indicates “has” in paragraph (p)(1) of this provision, enter the following information:

Immediate owner CAGE code: \_\_\_\_\_.

Immediate owner legal name: \_\_\_\_\_.

(Do not use a “doing business as” name)

Is the immediate owner owned or controlled by another entity:  Yes or  No.

(3) If the Offeror indicates “yes” in paragraph (p)(2) of this provision, indicating that the immediate owner is owned or controlled by another entity, then enter the following information:

Highest-level owner CAGE code: \_\_\_\_\_.

Highest-level owner legal name: \_\_\_\_\_.

(Do not use a “doing business as” name)

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.*

(1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(r) *Predecessor of Offeror.* (Applies in all solicitations that include the provision at [52.204-16](#), Commercial and Government Entity Code Reporting.)

(1) The Offeror represents that it  is or  is not a successor to a predecessor that held a Federal contract or grant within the last three years.

(2) If the Offeror has indicated “is” in paragraph (r)(1) of this provision, enter the following information for all predecessors that held a Federal contract or grant within the last three years (if more than one predecessor, list in reverse chronological order):

Predecessor CAGE code: \_\_\_\_\_ (or mark “Unknown”)

Predecessor legal name: \_\_\_\_\_

(Do not use a “doing business as” name)

(s) *Representation regarding compliance with labor laws (Executive Order 13673).* If the offeror is a joint venture that is not itself a separate legal entity, each concern participating in the joint venture shall separately comply with the requirements of this provision.

(1)(i) For solicitations issued on or after October 25, 2016 through April 24, 2017: The Offeror  does  does not anticipate submitting an offer with an estimated contract value of greater than \$50 million.

(ii) For solicitations issued after April 24, 2017: The Offeror  does  does not anticipate submitting an offer with an estimated contract value of greater than \$500,000.

(2) If the Offeror checked “does” in paragraph (s)(1)(i) or (ii) of this provision, the Offeror represents to the best of the Offeror’s knowledge and belief [*Offeror to check appropriate block*]:

(i) There has been no administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the offeror (see definitions in paragraph (a) of this section) during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter; or

(ii) There has been an administrative merits determination, arbitral award or decision, or civil judgment for any labor law violation(s) rendered against the Offeror during the period beginning on October 25, 2015 to the date of the offer, or for three years preceding the date of the offer, whichever period is shorter.

(3)(i) If the box at paragraph (s)(2)(ii) of this provision is checked and the Contracting Officer has initiated a responsibility determination and has requested additional information, the Offeror shall provide—

(A) The following information for each disclosed labor law decision in the System for Award Management (SAM) at [www.sam.gov](http://www.sam.gov), unless the information is already current, accurate, and complete in SAM. This information will be publicly available in the Federal Awardee Performance and Integrity Information System (FAPIS):

(1) The labor law violated.

(2) The case number, inspection number, charge number, docket number, or other unique identification number.

(3) The date rendered.

(4) The name of the court, arbitrator(s), agency, board, or commission that rendered the determination or decision;

(B) The administrative merits determination, arbitral award or decision, or civil judgment document, to the Contracting Officer, if the Contracting Officer requires it;

(C) In SAM, such additional information as the Offeror deems necessary to demonstrate its responsibility, including mitigating factors and remedial measures such as offeror actions taken to address the violations, labor compliance agreements, and other steps taken to achieve compliance with labor laws. Offerors may provide explanatory text and upload documents. This information will not be made public unless the contractor determines that it wants the information to be made public; and

(D) The information in paragraphs (s)(3)(i)(A) and (s)(3)(i)(C) of this provision to the Contracting Officer, if the Offeror meets an exception to SAM registration (see FAR [4.1102\(a\)](#)).

(ii)(A) The Contracting Officer will consider all information provided under (s)(3)(i) of this provision as part of making a responsibility determination.

(B) A representation that any labor law decision(s) were rendered against the Offeror will not necessarily result in withholding of an award under this solicitation. Failure of the Offeror to furnish a representation or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(C) The representation in paragraph (s)(2) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous representation, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation in accordance with the procedures set forth in FAR [12.403](#).

(4) The Offeror shall provide immediate written notice to the Contracting Officer if at any time prior to contract award the Offeror learns that its representation at paragraph (s)(2) of this provision is no longer accurate.

(5) The representation in paragraph (s)(2) of this provision will be public information in the Federal Awardee Performance and Integrity Information System (FAPIS).

**Note to paragraph (s):** By a court order issued on October 24, 2016, this paragraph (s) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the

*Federal Register* advising the public of the termination of the injunction.

(End of provision)

*Alternate I (Oct 2014).* As prescribed in [12.301\(b\)\(2\)](#), add the following paragraph (c)(11) to the basic provision:

(11) (Complete if the offeror has represented itself as disadvantaged in paragraph (c)(4) of this provision.)

Black American.

Hispanic American.

Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, Republic of Palau, Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

Individual/concern, other than one of the preceding.

(t) *Public Disclosure of Greenhouse Gas Emissions and Reduction Goals.* Applies in all solicitations that require offerors to register in SAM ([52.212-1\(k\)](#)).

(1) This representation shall be completed if the Offeror received \$7.5 million or more in contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(2) *Representation.* [Offeror to check applicable block(s) in paragraph (t)(2)(i) and (ii)]. (i) The Offeror (itself or through its immediate owner or highest-level owner)  does,  does not publicly disclose greenhouse gas emissions, *i.e.*, makes available on a publicly accessible website the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(ii) The Offeror (itself or through its immediate owner or highest-level owner)  does,  does not publicly disclose a quantitative greenhouse gas emissions reduction goal, *i.e.*, make available on a publicly accessible website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(iii) A publicly accessible website includes the Offeror's own website or a recognized, third-party greenhouse gas emissions reporting program.

(3) If the Offeror checked “does” in paragraphs (t)(2)(i) or (t)(2)(ii) of this provision, respectively, the Offeror shall provide the publicly accessible website(s) where greenhouse gas emissions and/or reduction goals are reported:\_\_\_\_\_.

#### 52.212-4 Contract Terms and Conditions—Commercial Items.

As prescribed in [12.301\(b\)\(3\)](#), insert the following clause:

##### CONTRACT TERMS AND CONDITIONS—COMMERCIAL ITEMS (MAY 2015)

(a) *Inspection/Acceptance.* The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights—

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(b) *Assignment.* The Contractor or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act ([31 U.S.C. 3727](#)). However, when a third party makes payment (*e.g.*, use of the Governmentwide commercial purchase card), the Contractor may not assign its rights to receive payment under this contract.

(c) *Changes.* Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) *Disputes.* This contract is subject to [41 U.S.C. chapter 71](#), Contract Disputes. Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR [52.233-1](#), Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) *Definitions.* The clause at FAR [52.202-1](#), Definitions, is incorporated herein by reference.

(f) *Excusable delays.* The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restric-

tions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) *Invoice.*(1) The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the Contractor;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on Government bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (*e.g.*, [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management, or [52.232-34](#), Payment by Electronic Funds Transfer—Other Than System for Award Management), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

(h) *Patent indemnity.* The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) *Payment.*—(1) *Items accepted.* Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract.

(2) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and prompt payment regulations at 5 CFR Part 1315.

(3) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see [52.212-5\(b\)](#) for the appropriate EFT clause.

(4) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(5) *Overpayments.* If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6) *Interest.* (i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, as provided in (i)(6)(v) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final decisions.* The Contracting Officer will issue a final decision as required by [33.211](#) if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt within 30 days;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see [32.607-2](#)).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in [32.608-2](#) of the Federal Acquisition Regulation in effect on the date of this contract.

(j) *Risk of loss.* Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes.* The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide

the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) *Warranty*. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The Contractor agrees to comply with [31 U.S.C. 1352](#) relating to limitations on the use of appropriated funds to influence certain Federal contracts; [18 U.S.C. 431](#) relating to officials not to benefit; [40 U.S.C. chapter 37](#), Contract Work Hours and Safety Standards; [41 U.S.C. chapter 87](#), Kickbacks; [41 U.S.C. 4712](#) and [10 U.S.C. 2409](#) relating to whistleblower protections; [49 U.S.C. 40118](#), Fly American; and [41 U.S.C. chapter 21](#) relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services.
- (2) The Assignments, Disputes, Payments, Invoice, Other Compliances, Compliance with Laws Unique to Government Contracts, and Unauthorized Obligations paragraphs of this clause;
- (3) The clause at [52.212-5](#).
- (4) Addenda to this solicitation or contract, including any license agreements for computer software.
- (5) Solicitation provisions if this is a solicitation.
- (6) Other paragraphs of this clause.
- (7) The [Standard Form 1449](#).
- (8) Other documents, exhibits, and attachments.
- (9) The specification.

(t) *System for Award Management (SAM)*. (1) Unless exempted by an addendum to this contract, the Contractor is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the SAM database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the SAM database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the SAM database to ensure

it is current, accurate and complete. Updating information in the SAM does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR [subpart 42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the SAM database; (B) comply with the requirements of [subpart 42.12](#); and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the agreement at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the SAM information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the SAM record to reflect an assignee for the purpose of assignment of claims (see [subpart 32.8](#), Assignment of Claims). Assignees shall be separately registered in the SAM database. Information provided to the Contractor's SAM record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via SAM accessed through <https://www.acquisition.gov>.

(u) *Unauthorized Obligations* (1) Except as stated in paragraph (u)(2) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Deficiency Act violation (31 U.S.C. 1341), the following shall govern:

(i) Any such clause is unenforceable against the Government.

(ii) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an "I agree" click box or other comparable mechanism (e.g., "click-wrap" or "browse-wrap" agreements), execution does not bind the Government or any Government authorized end user to such clause.

(iii) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.

(2) Paragraph (u)(1) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(v) *Incorporation by reference.* The Contractor's representations and certifications, including those completed electronically via the System for Award Management (SAM), are incorporated by reference into the contract.

(*End of clause*)

*Alternate I (MAY 2014).* When a time-and-materials or labor-hour contract is contemplated, substitute the following paragraphs (a), (e), (i), (l), and (m) for those in the basic clause.

(a) *Inspection/Acceptance.* (1) The Government has the right to inspect and test all materials furnished and services performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The Government may also inspect the plant or plants of the Contractor or any subcontractor engaged in contract performance. The Government will perform inspections and tests in a manner that will not unduly delay the work.

(2) If the Government performs inspection or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(3) Unless otherwise specified in the contract, the Government will accept or reject services and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the services or materials last delivered under this contract, the Government may require the Contractor to replace or correct services or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the "hourly rate" for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the "hourly rate" attributable to profit shall be 10 percent. The Contractor shall not tender for acceptance materials and services required to be replaced or corrected without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken. [*Insert portion of labor rate attributable to profit.*]

(5)(i) If the Contractor fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the Government), the Government may—

(A) By contract or otherwise, perform the replacement or correction, charge to the Contractor any increased cost,

or deduct such increased cost from any amounts paid or due under this contract; or

(B) Terminate this contract for cause.

(ii) Failure to agree to the amount of increased cost to be charged to the Contractor shall be a dispute under the Disputes clause of the contract.

(6) Notwithstanding paragraphs (a)(4) and (5) above, the Government may at any time require the Contractor to remedy by correction or replacement, without cost to the Government, any failure by the Contractor to comply with the requirements of this contract, if the failure is due to—

(i) Fraud, lack of good faith, or willful misconduct on the part of the Contractor's managerial personnel; or

(ii) The conduct of one or more of the Contractor's employees selected or retained by the Contractor after any of the Contractor's managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(7) This clause applies in the same manner and to the same extent to corrected or replacement materials or services as to materials and services originally delivered under this contract.

(8) The Contractor has no obligation or liability under this contract to correct or replace materials and services that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(9) Unless otherwise specified in the contract, the Contractor's obligation to correct or replace Government-furnished property shall be governed by the clause pertaining to Government property.

(e) *Definitions.* (1) The clause at FAR [52.202-1](#), *Definitions*, is incorporated herein by reference. As used in this clause—

(i) *Direct materials* means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or service.

(ii) *Hourly rate* means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are—

(A) Performed by the contractor;

(B) Performed by the subcontractors; or

(C) Transferred between divisions, subsidiaries, or affiliates of the contractor under a common control.

(iii) *Materials* means—

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the contractor under a common control;

(B) Subcontracts for supplies and incidental services for which there is not a labor category specified in the contract;

(C) Other direct costs (*e.g.*, incidental services for which there is not a labor category specified in the contract, travel, computer usage charges, etc.);

(D) The following subcontracts for services which are specifically excluded from the hourly rate: [*Insert any subcontracts for services to be excluded from the hourly rates prescribed in the schedule.*]; and

(E) Indirect costs specifically provided for in this clause.

(iv) *Subcontract* means any contract, as defined in FAR [subpart 2.1](#), entered into with a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract including transfers between divisions, subsidiaries, or affiliates of a contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(i) *Payments.* (1) *Work performed.* The Government will pay the Contractor as follows upon the submission of commercial invoices approved by the Contracting Officer:

(i) *Hourly rate.*

(A) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis.

(B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(C) Invoices may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

(D) When requested by the Contracting Officer or the authorized representative, the Contractor shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.

(E) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis.

(1) If no overtime rates are provided in the Schedule and the Contracting Officer approves overtime work in advance, overtime rates shall be negotiated.

(2) Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract.

(3) If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(ii) *Materials.*

(A) If the Contractor furnishes materials that meet the definition of a commercial item at [2.101](#), the price to be paid for such materials shall not exceed the Contractor's established catalog or market price, adjusted to reflect the—

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

(B) Except as provided for in paragraph (i)(1)(ii)(A) and (D)(2) of this clause, the Government will reimburse the Contractor the actual cost of materials (less any rebates, refunds, or discounts received by the contractor that are identifiable to the contract) provided the Contractor—

(1) Has made payments for materials in accordance with the terms and conditions of the agreement or invoice; or

(2) Makes these payments within 30 days of the submission of the Contractor's payment request to the Government and such payment is in accordance with the terms and conditions of the agreement or invoice.

(C) To the extent able, the Contractor shall—

(1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(2) Give credit to the Government for cash and trade discounts, rebates, scrap, commissions, and other amounts that are identifiable to the contract.

(D) *Other Costs.* Unless listed below, other direct and indirect costs will not be reimbursed.

(1) *Other Direct Costs.* The Government will reimburse the Contractor on the basis of actual cost for the following, provided such costs comply with the requirements in paragraph (i)(1)(ii)(B) of this clause: [*Insert each element of other direct costs (e.g., travel, computer usage charges, etc. Insert "None" if no reimbursement for other direct costs will be provided. If this is an indefinite delivery contract, the Contracting Officer may insert "Each order must list separately the elements of other direct charge(s) for that order or, if no reimbursement for other direct costs will be provided, insert 'None'."*]

(2) *Indirect Costs (Material Handling, Subcontract Administration, etc.).* The Government will reimburse the Contractor for indirect costs on a pro-rata basis over the period of contract performance at the following fixed price: [*Insert a fixed amount for the indirect costs and payment schedule. Insert "\$0" if no fixed price reimbursement for indirect costs will be provided. (If this is an indefinite delivery contract, the Contracting Officer may insert "Each order must list separately the fixed amount for the indirect costs and payment schedule or, if no reimbursement for indirect costs, insert 'None'."*]

(2) *Total cost.* It is estimated that the total cost to the Government for the performance of this contract shall not exceed the ceiling price set forth in the Schedule and the Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within such ceiling price. If at any time the Contractor has reason to believe that the hourly rate payments and material costs that will accrue in performing this contract in the next succeeding 30 days, if added to all other payments and costs previously accrued, will exceed 85 percent of the ceiling price in the Schedule, the Contractor shall notify the Contracting Officer giving a



revised estimate of the total price to the Government for performing this contract with supporting reasons and documentation. If at any time during the performance of this contract, the Contractor has reason to believe that the total price to the Government for performing this contract will be substantially greater or less than the then stated ceiling price, the Contractor shall so notify the Contracting Officer, giving a revised estimate of the total price for performing this contract, with supporting reasons and documentation. If at any time during performance of this contract, the Government has reason to believe that the work to be required in performing this contract will be substantially greater or less than the stated ceiling price, the Contracting Officer will so advise the Contractor, giving the then revised estimate of the total amount of effort to be required under the contract.

(3) *Ceiling price.* The Government will not be obligated to pay the Contractor any amount in excess of the ceiling price in the Schedule, and the Contractor shall not be obligated to continue performance if to do so would exceed the ceiling price set forth in the Schedule, unless and until the Contracting Officer notifies the Contractor in writing that the ceiling price has been increased and specifies in the notice a revised ceiling that shall constitute the ceiling price for performance under this contract. When and to the extent that the ceiling price set forth in the Schedule has been increased, any hours expended and material costs incurred by the Contractor in excess of the ceiling price before the increase shall be allowable to the same extent as if the hours expended and material costs had been incurred after the increase in the ceiling price.

(4) *Access to records.* At any time before final payment under this contract, the Contracting Officer (or authorized representative) will have access to the following (access shall be limited to the listing below unless otherwise agreed to by the Contractor and the Contracting Officer):

(i) Records that verify that the employees whose time has been included in any invoice meet the qualifications for the labor categories specified in the contract;

(ii) For labor hours (including any subcontractor hours reimbursed at the hourly rate in the schedule), when timecards are required as substantiation for payment—

(A) The original timecards (paper-based or electronic);

(B) The Contractor's timekeeping procedures;

(C) Contractor records that show the distribution of labor between jobs or contracts; and

(D) Employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.

(iii) For material and subcontract costs that are reimbursed on the basis of actual cost—

(A) Any invoices or subcontract agreements substantiating material costs; and

(B) Any documents supporting payment of those invoices.

(5) *Overpayments/Underpayments.* Each payment previously made shall be subject to reduction to the extent of

amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. The Contractor shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The Government within 30 days will pay any such increases, unless the parties agree otherwise. The Contractor's payment will be made by check. If the Contractor becomes aware of a duplicate invoice payment or that the Government has otherwise overpaid on an invoice payment, the Contractor shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (*e.g.*, duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) Contractor point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6)(i) All amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury, as provided in [41 U.S.C. 7109](#), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six month period as established by the Secretary until the amount is paid.

(ii) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(iii) *Final Decisions.* The Contracting Officer will issue a final decision as required by [33.211](#) if—

(A) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(B) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(C) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR [32.607-2](#)).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the Contractor;

(B) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in [32.608-2](#) of the Federal Acquisition Regulation in effect on the date of this contract.

(viii) Upon receipt and approval of the invoice designated by the Contractor as the “completion invoice” and supporting documentation, and upon compliance by the Contractor with all terms of this contract, any outstanding balances will be paid within 30 days unless the parties agree otherwise. The completion invoice, and supporting documentation, shall be submitted by the Contractor as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(7) *Release of claims.* The Contractor, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the Government, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions.

(i) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible to exact statement by the Contractor.

(ii) Claims, together with reasonable incidental expenses, based upon the liabilities of the Contractor to third parties arising out of performing this contract, that are not known to the Contractor on the date of the execution of the release, and of which the Contractor gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the Contractor that the Government is prepared to make final payment, whichever is earlier.

(iii) Claims for reimbursement of costs (other than expenses of the Contractor by reason of its indemnification of the Government against patent liability), including reasonable incidental expenses, incurred by the Contractor under the terms of this contract relating to patents.

(8) *Prompt payment.* The Government will make payment in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and prompt payment regulations at 5 CFR part 1315.

(9) *Electronic Funds Transfer (EFT).* If the Government makes payment by EFT, see [52.212-5\(b\)](#) for the appropriate EFT clause.

(10) *Discount.* In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(l) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the Contractor plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system that have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(m) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

#### **52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders— Commercial Items.**

As prescribed in [12.301\(b\)\(4\)](#), insert the following clause:

##### **CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS— COMMERCIAL ITEMS (DEC 2016)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

(2) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(3) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004)(Public Laws 108-77 and 108-78 ([19 U.S.C. 3805 note](#))).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[Contracting Officer check as appropriate.]

\_\_\_ (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (SEPT 2006), with Alternate I (OCT 1995) ([41 U.S.C. 4704](#) and [10 U.S.C. 2402](#)).

\_\_\_ (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (OCT 2015) ([41 U.S.C. 3509](#))).

\_\_\_ (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUNE 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

\_\_\_ (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2016) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

\_\_\_ (5) [Reserved].

\_\_\_ (6) [52.204-14](#), Service Contract Reporting Requirements (OCT 2016) (PUB. L. 111-117, section 743 OF DIV. C).

\_\_\_ (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (PUB. L. 111-117, section 743 OF DIV. C).

\_\_\_ (8) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (OCT 2015) ([31 U.S.C. 6101 note](#)).

\_\_\_ (9) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (JUL 2013) ([41 U.S.C. 2313](#)).

\_\_\_ (10) [Reserved].

\_\_\_ (11)(i) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) ([15 U.S.C. 657a](#)).

\_\_\_ (ii) Alternate I (NOV 2011) of [52.219-3](#).

\_\_\_ (12)(i) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2014) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).

\_\_\_ (ii) Alternate I (JAN 2011) of [52.219-4](#).

\_\_\_ (13) [Reserved]

\_\_\_ (14)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (NOV 2011) ([15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (NOV 2011).

\_\_\_ (iii) Alternate II (NOV 2011).

\_\_\_ (15)(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (JUNE 2003) ([15 U.S.C. 644](#)).

\_\_\_ (ii) Alternate I (OCT 1995) of [52.219-7](#).

\_\_\_ (iii) Alternate II (MAR 2004) of [52.219-7](#).

\_\_\_ (16) [52.219-8](#), Utilization of Small Business Concerns (NOV 2016) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).

\_\_\_ (17)(i) [52.219-9](#), Small Business Subcontracting Plan (NOV 2016) ([15 U.S.C. 637\(d\)\(4\)](#)).

\_\_\_ (ii) Alternate I (NOV 2016) of [52.219-9](#).

\_\_\_ (iii) Alternate II (NOV 2016) of [52.219-9](#).

\_\_\_ (iv) Alternate III (NOV 2016) of [52.219-9](#).

\_\_\_ (v) Alternate IV (NOV 2016) of [52.219-9](#).

\_\_\_ (18) [52.219-13](#), Notice of Set-Aside of Orders (NOV 2011) ([15 U.S.C. 644\(r\)](#)).

\_\_\_ (19) [52.219-14](#), Limitations on Subcontracting (NOV 2011) ([15 U.S.C. 637\(a\)\(14\)](#)).

\_\_\_ (20) [52.219-16](#), Liquidated Damages—Subcontracting Plan (JAN 1999) ([15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).

\_\_\_ (21) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) ([15 U.S.C. 657 f](#)).

\_\_\_ (22) [52.219-28](#), Post Award Small Business Program Rerepresentation (JUL 2013) ([15 U.S.C. 632\(a\)\(2\)](#)).

\_\_\_ (23) [52.219-29](#), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (DEC 2015) ([15 U.S.C. 637\(m\)](#)).

\_\_\_ (24) [52.219-30](#), Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (DEC 2015) ([15 U.S.C. 637\(m\)](#)).

\_\_\_ (25) [52.222-3](#), Convict Labor (JUNE 2003) (E.O. 11755).

\_\_\_ (26) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (OCT 2016) (E.O. 13126).

\_\_\_ (27) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

\_\_\_ (28) [52.222-26](#), Equal Opportunity (SEPT 2016) (E.O. 11246).

\_\_\_ (29) [52.222-35](#), Equal Opportunity for Veterans (OCT 2015) ([38 U.S.C. 4212](#)).

\_\_\_ (30) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUL 2014) ([29 U.S.C. 793](#)).

\_\_\_ (31) [52.222-37](#), Employment Reports on Veterans (FEB 2016) ([38 U.S.C. 4212](#)).

\_\_\_ (32) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

\_\_\_ (33)(i) [52.222-50](#), Combating Trafficking in Persons (MAR 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627).

\_\_\_ (ii) Alternate I (MAR 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O. 13627).

\_\_\_ (34) [52.222-54](#), Employment Eligibility Verification (OCT 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](#).)

\_\_\_ (35) [52.222-59](#), Compliance with Labor Laws (Executive Order 13673) (OCT 2016). (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000

for solicitations and resultant contracts issued after April 24, 2017).

**Note to paragraph (b)(35):** By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the *Federal Register* advising the public of the termination of the injunction.

— (36) [52.222-60](#), Paycheck Transparency (Executive Order 13673) (OCT 2016).

— (37)(i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA-Designated Items (MAY 2008) ([42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

— (ii) Alternate I (MAY 2008) of [52.223-9](#) ([42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

— (38) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693).

— (39) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).

— (40)(i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).

— (ii) Alternate I (OCT 2015) of [52.223-13](#).

— (41)(i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-14](#).

— (42) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)).

— (43)(i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-16](#).

— (44) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).

— (45) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693).

— (46) [52.223-21](#), Foams (JUN 2016) (E.O. 13693).

— (47) [52.225-1](#), Buy American—Supplies (MAY 2014) ([41 U.S.C. chapter 83](#)).

— (48)(i) [52.225-3](#), Buy American—Free Trade Agreements—Israeli Trade Act (MAY 2014) ([41 U.S.C. chapter 83](#), [19 U.S.C. 3301](#) note, [19 U.S.C. 2112](#) note, [19 U.S.C. 3805](#) note, [19 U.S.C. 4001](#) note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43).

— (ii) Alternate I (MAY 2014) of [52.225-3](#).

— (iii) Alternate II (MAY 2014) of [52.225-3](#).

— (iv) Alternate III (MAY 2014) of [52.225-3](#).

— (49) [52.225-5](#), Trade Agreements (OCT 2016) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).

— (50) [52.225-13](#), Restrictions on Certain Foreign Purchases (JUNE 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

— (51) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

— (52) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (NOV 2007) ([42 U.S.C. 5150](#)).

— (53) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) ([42 U.S.C. 5150](#)).

— (54) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (FEB 2002) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

— (55) [52.232-30](#), Installment Payments for Commercial Items (OCT 1995) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

— (56) [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management (JUL 2013) ([31 U.S.C. 3332](#)).

— (57) [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) ([31 U.S.C. 3332](#)).

— (58) [52.232-36](#), Payment by Third Party (MAY 2014) ([31 U.S.C. 3332](#)).

— (59) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ([5 U.S.C. 552a](#)).

— (60)(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)).

— (ii) Alternate I (Apr 2003) of [52.247-64](#).

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items: [*Contracting Officer check as appropriate.*]

— (1) [52.222-17](#), Nondisplacement of Qualified Workers (MAY 2014)(E.O. 13495).

— (2) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).

— (3) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (MAY 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (4) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (MAY 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (5) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (MAY 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (6) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (MAY 2014) ([41 U.S.C. chapter 67](#)).

— (7) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (MAY 2014) ([41 U.S.C. chapter 67](#)).

— (8) [52.222-55](#), Minimum Wages Under Executive Order 13658 (DEC 2015).

— (9) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) ([42 U.S.C. 1792](#)).

— (10) [52.237-11](#), Accepting and Dispensing of \$1 Coin (SEPT 2008) ([31 U.S.C. 5112\(p\)\(1\)](#)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at [52.215-2](#), Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR [subpart 4.7](#), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (OCT 2015) ([41 U.S.C. 3509](#)).

(ii) [52.219-8](#), Utilization of Small Business Concerns (NOV 2016) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iii) [52.222-17](#), Nondisplacement of Qualified Workers (MAY 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause [52.222-17](#).

(iv) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015)

(v) [52.222-26](#), Equal Opportunity (SEPT 2016) (E.O. 11246).

(vi) [52.222-35](#), Equal Opportunity for Veterans (OCT 2015) ([38 U.S.C. 4212](#)).

(vii) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUL 2014) ([29 U.S.C. 793](#)).

(viii) [52.222-37](#), Employment Reports on Veterans (FEB 2016) ([38 U.S.C. 4212](#)).

(ix) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(x) [52.222-41](#), Service Contract Labor Standards (MAY 2014) ([41 U.S.C. chapter 67](#)).

(xi) (A) [52.222-50](#), Combating Trafficking in Persons (MAR 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627).

(B) Alternate I (MAR 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O. 13627).

(xii) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (MAY 2014) ([41 U.S.C. chapter 67](#)).

(xiii) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ([41 U.S.C. chapter 67](#)).

(xiv) [52.222-54](#), Employment Eligibility Verification (OCT 2015) (E.O. 12989).

(xv) [52.222-55](#), Minimum Wages Under Executive Order 13658 (DEC 2015).

(xvi) [52.222-59](#), Compliance with Labor Laws (Executive Order 13673) (OCT 2016) (Applies at \$50 million for solicitations and resultant contracts issued from October 25, 2016 through April 24, 2017; applies at \$500,000 for solicitations and resultant contracts issued after April 24, 2017).

**Note to paragraph (e)(1)(xvi):** By a court order issued on October 24, 2016, [52.222-59](#) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the *Federal Register* advising the public of the termination of the injunction.

(xvii) [52.222-60](#), Paycheck Transparency (Executive Order 13673) (OCT 2016).

(xviii) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

(xix) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) ([42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(xx) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C.](#)

[Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

*Alternate I (Feb 2000).* As prescribed in [12.301\(b\)\(4\)\(i\)](#), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to “paragraphs (a), (b), (c), or (d) of this clause” in the redesignated paragraph (d) to read “paragraphs (a), (b), and (c) of this clause.”

*Alternate II (Dec 2016).* As prescribed in [12.301\(b\)\(4\)\(ii\)](#), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 ([5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor’s or any subcontractors’ records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial items, other than—

(i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Oct 2015) ([41 U.S.C. 3509](#)).

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5).

(C) [52.219-8](#), Utilization of Small Business Concerns (Nov 2016) ([15 U.S.C. 637\(d\)\(2\) and \(3\)](#)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(D) [52.222-21](#), Prohibition of Segregated Facilities (Apr 2015).

(E) [52.222-26](#), Equal Opportunity (Sept 2016) (E.O. 11246).

(F) [52.222-35](#), Equal Opportunity for Veterans (Oct 2015) ([38 U.S.C. 4212](#)).

(G) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).

(H) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(I) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).

(J) *(1)* [52.222-50](#), Combating Trafficking in Persons (Mar 2015) ([22 U.S.C. chapter 78](#) and E.O 13627).

*(2)* Alternate I (Mar 2015) of [52.222-50](#) ([22 U.S.C. chapter 78](#) and E.O 13627).

(K) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) ([41 U.S.C. chapter 67](#)).

(L) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) ([41 U.S.C. chapter 67](#)).

(M) [52.222-54](#), Employment Eligibility Verification (Oct 2015) (Executive Order 12989).

(N) [52.222-55](#), Minimum Wages Under Executive Order 13658 (Dec 2015).

(O) [52.222-59](#) Compliance with Labor Laws (Executive Order 13673) (OCT 2016).

**Note to paragraph (e)(1)(ii)(O):** By a court order issued on October 24, 2016, [52.222-59](#) is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the *Federal Register* advising the public of the termination of the injunction.

(P) [52.222-60](#), Paycheck Transparency (Executive Order 13673) (OCT 2016).

(Q) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).

(R) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) ([42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(S) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241\(b\)](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

### 52.213-1 Fast Payment Procedure.

As prescribed in [13.404](#), insert the following clause:

FAST PAYMENT PROCEDURE (MAY 2006)

(a) *General.* The Government will pay invoices based on the Contractor's delivery to a post office or common carrier (or, if shipped by other means, to the point of first receipt by the Government).

(b) *Responsibility for supplies.*(1) Title to the supplies passes to the Government upon delivery to—

(i) A post office or common carrier for shipment to the specific destination; or

(ii) The point of first receipt by the Government, if shipment is by means other than Postal Service or common carrier.

(2) Notwithstanding any other provision of the contract, order, or blanket purchase agreement, the Contractor shall—

(i) Assume all responsibility and risk of loss for supplies not received at destination, damaged in transit, or not conforming to purchase requirements; and

(ii) Replace, repair, or correct those supplies promptly at the Contractor's expense, if instructed to do so by the Contracting Officer within 180 days from the date title to the supplies vests in the Government.

(c) *Preparation of invoice.*(1) Upon delivery to a post office or common carrier (or, if shipped by other means, the point of first receipt by the Government), the Contractor shall—

(i) Prepare an invoice as provided in this contract, order, or blanket purchase agreement; and

(ii) Display prominently on the invoice "FAST PAY." Invoices not prominently marked "FAST PAY" via manual or electronic means may be accepted by the payment office for fast payment. If the payment office declines to make fast payment, the Contractor shall be paid in accordance with procedures applicable to invoices to which the Fast Payment clause does not apply.

(2) If the purchase price excludes the cost of transportation, the Contractor shall enter the prepaid shipping cost on the invoice as a separate item. The Contractor shall not include the cost of parcel post insurance. If transportation charges are stated separately on the invoice, the Contractor shall retain related paid freight bills or other transportation billings paid separately for a period of 3 years and shall furnish the bills to the Government upon request.

(3) If this contract, order, or blanket purchase agreement requires the preparation of a receiving report, the Contractor shall either—

(i) Submit the receiving report on the prescribed form with the invoice; or

(ii) Include the following information on the invoice:

(A) Shipment number.

(B) Mode of shipment.

(C) At line item level—

(1) National stock number and/or manufacturer's part number;

(2) Unit of measure;

(3) Ship-To Point;

(4) Mark-For Point, if in the contract; and

(5) FEDSTRIP/MILSTRIP document number, if in the contract.

(4) If this contract, order, or blanket purchase agreement does not require preparation of a receiving report on a prescribed form, the Contractor shall include on the invoice the following information at the line item level, in addition to that required in paragraph (c)(1) of this clause:

(i) Ship-To Point.

(ii) Mark-For Point.

(iii) FEDSTRIP/MILSTRIP document number, if in the contract.

(5) Where a receiving report is not required, the Contractor shall include a copy of the invoice in each shipment.

(d) *Certification of invoice.* The Contractor certifies by submitting an invoice to the Government that the supplies being billed to the Government have been shipped or delivered in accordance with shipping instructions issued by the ordering officer, in the quantities shown on the invoice, and that the supplies are in the quantity and of the quality designated by the contract, order, or blanket purchase agreement.

(e) *FAST PAY container identification.* The Contractor shall mark all outer shipping containers "FAST PAY" When outer shipping containers are not marked "FAST PAY," the payment office may make fast payment. If the payment office declines to make fast payment, the Contractor shall be paid in accordance with procedures applicable to invoices to which the Fast Payment clause does not apply.

(End of clause)

#### 52.213-2 Invoices.

As prescribed in [13.302-5](#)(b), insert the following clause:

INVOICES (APR 1984)

The Contractor's invoices must be submitted before payment can be made. The Contractor will be paid on the basis of the invoice, which must state—

(a) The starting and ending dates of the subscription delivery; and

(b) Either that orders have been placed in effect for the addressees required, or that the orders will be placed in effect upon receipt of payment.

(End of clause)

#### 52.213-3 Notice to Supplier.

As prescribed in [13.302-5](#)(c), insert the following clause:

NOTICE TO SUPPLIER (APR 1984)

This is a firm order ONLY if your price does not exceed the maximum line item or total price in the Schedule. Submit invoices to the Contracting Officer. If you cannot perform in exact accordance with this order, WITHHOLD PERFORMANCE, and notify the Contracting Officer immediately, giving your quotation.

(End of clause)

**52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).**

As prescribed in [13.302-5\(d\)](#), insert the following clause:

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS  
(OTHER THAN COMMERCIAL ITEMS) (DEC 2016)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

(1) The clauses listed below implement provisions of law or Executive order:

(i) [52.222-3](#), Convict Labor (JUN 2003) (E.O. 11755).

(ii) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

(iii) [52.222-26](#), Equal Opportunity (SEPT 2016) (E.O. 11246).

(iv) [52.225-13](#), Restrictions on Certain Foreign Purchases (JUN 2008) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(v) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(vi) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78 ([19 U.S.C. 3805 note](#))).

(2) Listed below are additional clauses that apply:

(i) [52.232-1](#), Payments (APR 1984).

(ii) [52.232-8](#), Discounts for Prompt Payment (FEB 2002).

(iii) [52.232-11](#), Extras (APR 1984).

(iv) [52.232-25](#), Prompt Payment (JUL 2013).

(v) [52.232-39](#), Unenforceability of Unauthorized Obligations (JUN 2013).

(vi) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)

(vii) [52.233-1](#), Disputes (MAY 2014).

(viii) [52.244-6](#), Subcontracts for Commercial Items (NOV 2016).

(ix) [52.253-1](#), Computer Generated Forms (JAN 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

(1) The clauses listed below implement provisions of law or Executive order:

(i) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (OCT 2016) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)) (Applies to contracts valued at \$30,000 or more).

(ii) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (OCT 2016) (E.O. 13126) (Applies to contracts for supplies exceeding the micro-purchase threshold.)

(iii) [52.222-20](#), Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (MAY 2014) ([41 U.S.C. chapter 65](#)) (Applies to supply contracts over \$15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

(iv) [52.222-35](#), Equal Opportunity for Veterans (OCT 2015) ([38 U.S.C. 4212](#)) (applies to contracts of \$150,000 or more).

(v) [52.222-36](#), Equal Employment for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)) (Applies to contracts over \$15,000, unless the work is to be performed outside the United States by employees recruited outside the United States.) (For purposes of this clause, “United States” includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

(vi) [52.222-37](#), Employment Reports on Veterans (FEB 2016) ([38 U.S.C. 4212](#)) (Applies to contracts of \$150,000 or more).

(vii) [52.222-41](#), Service Contract Labor Standards (MAY 2014) ([41 U.S.C. chapter 67](#)) (Applies to service contracts over \$2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).

(viii)(A) [52.222-50](#), Combating Trafficking in Persons (MAR 2015) ([22 U.S.C. chapter 78](#) and E.O. 13627) (Applies to all solicitations and contracts).

(B) Alternate I (MAR 2015) (Applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies).

(ix) [52.222-55](#), Minimum Wages Under Executive Order 13658 (DEC 2015) (Applies when [52.222-6](#) or [52.222-41](#) are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).

(x) [52.223-5](#), Pollution Prevention and Right-to-Know Information (MAY 2011) (E.O. 13423) (Applies to services performed on Federal facilities).

(xi) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (JUN 2016) (E.O. 13693)(applies to contracts for products as prescribed at FAR 23.804(a)(1)).

(xii) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693) (Applies to maintenance, service, repair, or disposal of refrigeration equipment and air conditioners).



(xiii) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)) (Unless exempt pursuant to [23.204](#), applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP)) will be—

(A) Delivered;

(B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(C) Furnished by the Contractor for use by the Government; or

(D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance).

(xiv) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons as a propellant or as a solvent; or contracts for maintenance or repair of electronic or mechanical devices).

(xv) [52.223-21](#), Foams (JUN 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent; or contracts for construction of buildings or facilities).

(xvi) [52.225-1](#), Buy American—Supplies (MAY 2014) ([41 U.S.C. chapter 67](#)) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition—

(A) Is set aside for small business concerns; or

(B) Cannot be set aside for small business concerns (see [19.502-2](#)), and does not exceed \$25,000).

(xvii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) ([42 U.S.C. 1792](#)) (Applies to contracts greater than \$25,000 that provide for the provision, the service, or the sale of food in the United States).

(xviii) [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management (JUL 2013) (Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) database as its source of EFT information).

(xix) [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information).

(xx) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C. App. 1241](#)) (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at [47.504\(d\)](#)).

(2) Listed below are additional clauses that may apply:

(i) [52.204-21](#), Basic Safeguarding of Covered Contractor Information Systems (JUN 2016) (Applies to contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system).

(ii) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (OCT 2015) (Applies to contracts over \$35,000).

(iii) [52.211-17](#), Delivery of Excess Quantities (SEPT 1989) (Applies to fixed-price supplies).

(iv) [52.247-29](#), F.o.b. Origin (FEB 2006) (Applies to supplies if delivery is f.o.b. origin).

(v) [52.247-34](#), F.o.b. Destination (NOV 1991) (Applies to supplies if delivery is f.o.b. destination).

(c) *FAR 52.252-2, Clauses Incorporated by Reference (FEB 1998)*. This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

---

[Insert one or more Internet addresses]

(d) *Inspection/Acceptance*. The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its postacceptance rights—

(1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(e) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(f) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work per-

formed or costs incurred that reasonably could have been avoided.

(g) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(h) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

**52.214-1 [Reserved]**

**52.214-2 [Reserved]**

**52.214-3 Amendments to Invitations for Bids.**

As prescribed in [14.201-6\(b\)\(1\)](#), insert the following provision:

AMENDMENTS TO INVITATIONS FOR BIDS (DEC 2016)

(a) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged.

(b)(1) Bidders shall acknowledge receipt of any amendment to this solicitation—

- (i) By signing and returning the amendment;
- (ii) By identifying the amendment number and date in space provided for this purpose on the form for submitting a bid;
- (iii) By letter;
- (iv) By facsimile, if facsimile bids are authorized in the solicitation; or
- (v) By email, if email bids are authorized in the solicitation.

(2) The Government must receive the acknowledgment by the time and at the place specified for receipt of bids.

(End of provision)

**52.214-4 False Statements in Bids.**

As prescribed in [14.201-6\(b\)\(2\)](#), insert the following provision in all invitations for bids:

FALSE STATEMENTS IN BIDS (APR 1984)

Bidders must provide full, accurate, and complete information as required by this solicitation and its attachments. The penalty for making false statements in bids is prescribed in [18 U.S.C. 1001](#).

(End of provision)

**52.214-5 Submission of Bids.**

As prescribed in [14.201-6\(c\)\(1\)](#), insert the following provision:

SUBMISSION OF BIDS (DEC 2016)

(a) Bids and bid modifications shall be submitted in sealed envelopes or packages (unless submitted by electronic means)—

- (1) Addressed to the office specified in the solicitation; and
- (2) Showing the time and date specified for receipt, the solicitation number, and the name and address of the bidder.

(b) Bidders using commercial carrier services shall ensure that the bid is addressed and marked on the outermost envelope or wrapper as prescribed in paragraphs (a)(1) and (2) of

this provision when delivered to the office specified in the solicitation.

(c) Facsimile bids, modifications, or withdrawals, will not be considered unless authorized by the solicitation.

(d) Bids submitted by electronic commerce shall be considered only if the electronic commerce method was specifically stipulated or permitted by the solicitation.

(End of provision)

**52.214-6 Explanation to Prospective Bidders.**

As prescribed in [14.201-6\(c\)\(2\)](#), insert the following provision:

EXPLANATION TO PROSPECTIVE BIDDERS (APR 1984)

Any prospective bidder desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing soon enough to allow a reply to reach all prospective bidders before the submission of their bids. Oral explanations or instructions given before the award of a contract will not be binding. Any information given a prospective bidder concerning a solicitation will be furnished promptly to all other prospective bidders as an amendment to the solicitation, if that information is necessary in submitting bids or if the lack of it would be prejudicial to other prospective bidders.

(End of provision)

**52.214-7 Late Submissions, Modifications, and Withdrawals of Bids.**

As prescribed in [14.201-6\(c\)\(3\)](#), insert the following provision:

LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS (NOV 1999)

(a) Bidders are responsible for submitting bids, and any modifications or withdrawals, so as to reach the Government office designated in the invitation for bids (IFB) by the time specified in the IFB. If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids are due.

(b)(1) Any bid, modification, or withdrawal received at the Government office designated in the IFB after the exact time specified for receipt of bids is “late” and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late bid would not unduly delay the acquisition; and—

- (i) If it was transmitted through an electronic commerce method authorized by the IFB, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of bids; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of bids and was under the Government's control prior to the time set for receipt of bids.

(2) However, a late modification of an otherwise successful bid that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the bid wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that bids cannot be received at the Government office designated for receipt of bids by the exact time specified in the IFB and urgent Government requirements preclude amendment of the IFB, the time specified for receipt of bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Bids may be withdrawn by written notice received at any time before the exact time set for receipt of bids. If the IFB authorizes facsimile bids, bids may be withdrawn via facsimile received at any time before the exact time set for receipt of bids, subject to the conditions specified in the provision at [52.214-31](#), Facsimile Bids. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of bids, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid.

(End of provision)

#### 52.214-8 [Reserved]

#### 52.214-9 [Reserved]

#### 52.214-10 Contract Award—Sealed Bidding.

As prescribed in [14.201-6\(e\)](#), insert the following provision:

##### CONTRACT AWARD—SEALED BIDDING (JULY 1990)

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may—

- (1) Reject any or all bids;
- (2) Accept other than the lowest bid; and
- (3) Waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or group of items of a bid, unless the bidder qualifies the bid by specific limitations. Unless otherwise provided in the Schedule, bids may be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the bidder specifies otherwise in the bid.

(d) A written award or acceptance of a bid mailed or otherwise furnished to the successful bidder within the time for acceptance specified in the bid shall result in a binding contract without further action by either party.

(e) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

#### 52.214-11 [Reserved]

#### 52.214-12 Preparation of Bids.

As prescribed in [14.201-6\(f\)](#), insert the following provision:

##### PREPARATION OF BIDS (APR 1984)

(a) Bidders are expected to examine the drawings, specifications, Schedule, and all instructions. Failure to do so will be at the bidder's risk.

(b) Each bidder shall furnish the information required by the solicitation. The bidder shall sign the bid and print or type its name on the Schedule and each continuation sheet on which it makes an entry. Erasures or other changes must be initialed by the person signing the bid. Bids signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(c) For each item offered, bidders shall (1) show the unit price, including, unless otherwise specified, packaging, packing, and preservation and (2) enter the extended price for the quantity of each item offered in the "Amount" column of the Schedule. In case of discrepancy between a unit price and an extended price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Bids for supplies or services other than those specified will not be considered unless authorized by the solicitation.

(e) Bidders must state a definite time for delivery of supplies or for performance of services, unless otherwise specified in the solicitation.

(f) Time, if stated as a number of days, will include Saturdays, Sundays, and holidays.

(End of provision)

**52.214-13 [Reserved]**

**52.214-14 Place of Performance—Sealed Bidding.**

As prescribed in [14.201-6\(h\)](#), insert the following provision:

PLACE OF PERFORMANCE—SEALED BIDDING (APR 1985)

(a) The bidder, in the performance of any contract resulting from this solicitation, ? intends, ? does not intend [*check applicable box*] to use one or more plants or facilities located at a different address from the address of the bidder as indicated in this bid.

(b) If the bidder checks “intends” in paragraph (a) of this provision, it shall insert in the spaces provided below the required information:

PLACE OF PERFORMANCE (STREET ADDRESS, CITY, STATE, COUNTY, ZIP CODE)	NAME AND ADDRESS OF OWNER AND OPERATOR OF THE PLANT OR FACILITY IF OTHER THAN BIDDER
_____	_____
_____	_____

(End of provision)

**52.214-15 Period for Acceptance of Bids.**

As prescribed in [14.201-6\(i\)](#), insert the following provision:

PERIOD FOR ACCEPTANCE OF BIDS (APR 1984)

In compliance with the solicitation, the bidder agrees, if this bid is accepted within \_\_\_\_\_ calendar days (60 calendar days unless a different period is inserted by the bidder) from the date specified in the solicitation for receipt of bids, to furnish any or all items upon which prices are bid at the price set opposite each item, delivered at the designated point(s), within the time specified in the Schedule.

(End of provision)

**52.214-16 Minimum Bid Acceptance Period.**

As prescribed in [14.201-6\(j\)](#), insert the following provision in invitations for bids, except for construction, if the contracting officer determines that a minimum acceptance period must be specified:

MINIMUM BID ACCEPTANCE PERIOD (APR 1984)

(a) “Acceptance period,” as used in this provision, means the number of calendar days available to the Government for

awarding a contract from the date specified in this solicitation for receipt of bids.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The Government requires a minimum acceptance period of \_\_\_\_\_ calendar days [*the Contracting Officer shall insert the number of days*].

(d) In the space provided immediately below, bidders may specify a longer acceptance period than the Government’s minimum requirement.

The bidder allows the following acceptance period:  
\_\_\_\_\_ calendar days.

(e) A bid allowing less than the Government’s minimum acceptance period will be rejected.

(f) The bidder agrees to execute all that it has undertaken to do, in compliance with its bid, if that bid is accepted in writing within—

(1) The acceptance period stated in paragraph (c) of this clause; or

(2) Any longer acceptance period stated in paragraph (d) of this clause.

(End of provision)

**52.214-17 [Reserved]**

**52.214-18 Preparation of Bids—Construction.**

As prescribed in [14.201-6\(l\)](#), insert the following provision:

PREPARATION OF BIDS—CONSTRUCTION (APR 1984)

(a) Bids must be—

(1) Submitted on the forms furnished by the Government or on copies of those forms, and

(2) *Manually signed*. The person signing a bid must initial each erasure or change appearing on any bid form.

(b) The bid form may require bidders to submit bid prices for one or more items on various bases, including—

(1) Lump sum bidding;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires bidding on all items, failure to do so will disqualify the bid. If bidding on all items is not required, bidders should insert the words “no bid” in the space provided for any item on which no price is submitted.

(d) Alternate bids will not be considered unless this solicitation authorizes their submission.

(End of provision)

**52.214-19 Contract Award—Sealed Bidding—Construction.**

As prescribed in [14.201-6\(m\)](#), insert the following provision:

CONTRACT AWARD—SEALED BIDDING—CONSTRUCTION  
(AUG 1996)

(a) The Government will evaluate bids in response to this solicitation without discussions and will award a contract to the responsible bidder whose bid, conforming to the solicitation, will be most advantageous to the Government, considering only price and the price-related factors specified elsewhere in the solicitation.

(b) The Government may reject any or all bids, and waive informalities or minor irregularities in bids received.

(c) The Government may accept any item or combination of items, unless doing so is precluded by a restrictive limitation in the solicitation or the bid.

(d) The Government may reject a bid as nonresponsive if the prices bid are materially unbalanced between line items or subline items. A bid is materially unbalanced when it is based on prices significantly less than cost for some work and prices which are significantly overstated in relation to cost for other work, and if there is a reasonable doubt that the bid will result in the lowest overall cost to the Government even though it may be the low evaluated bid, or if it is so unbalanced as to be tantamount to allowing an advance payment.

(End of provision)

**52.214-20 Bid Samples.**

As prescribed in [14.201-6\(o\)\(1\)](#), insert the following provision:

BID SAMPLES (APR 2002)

(a) “Bid sample” means a product sample required to be submitted by a bidder to show those characteristics of the offered products that cannot adequately be described by specifications, purchase descriptions, or the invitation for bid (e.g., balance, facility of use, or pattern).

(b) Bidders must furnish bid samples as part of the bid. The Government must receive the bid samples by the time specified in the invitation for bids. If the bidder fails to submit samples on time, the Government will reject the bid, except that the Contracting Officer will consider a late sample sent by mail under the Late Submissions, Modifications, and Withdrawals of Bids provision of this solicitation.

(c) The Government will test or evaluate bid samples to determine compliance with all the characteristics listed for examination in this solicitation. The Government will reject the bid when the sample fails to conform to the required characteristics. Products delivered under any resulting contract must conform to—

(1) The approved sample for the characteristics listed for test or evaluation; and

(2) The specifications for all other characteristics.

(d) Unless otherwise specified in the solicitation, bid samples shall be—

(1) Submitted at no expense to the Government; and

(2) Returned at the bidder’s request and expense, unless they are destroyed during preaward testing.

(End of provision)

*Alternate I (May 2002).* As prescribed in [14.201-6\(o\)\(2\)\(i\)](#), insert the following Alternate I:

(e) At the discretion of the Contracting Officer, the requirement for furnishing bid samples may be waived for a bidder if—

(1) The bid states that the offered product is the same as a product offered by the bidder to the \_\_\_\_\_ [as appropriate, the Contracting Officer shall designate the contracting office or an alternate activity or office]; and

(2) The Contracting Officer determines that the previously offered product was accepted or tested and found to comply with specification and other requirements for technical acceptability conforming in every material respect with those in this solicitation.

*Alternate II (May 2002).* As prescribed in [14.201-6\(o\)\(2\)\(ii\)](#), insert the following Alternate II:

(e) At the discretion of the Contracting Officer, the requirements for furnishing bid samples may be waived for a bidder if—

(1) The bid states that the offered product is the same as a product offered by the bidder to the \_\_\_\_\_ [as appropriate, the Contracting Officer shall designate the contracting office or an alternate activity or office] on a previous acquisition;

(2) The Contracting Officer determines that the previously offered product was accepted or tested and found to comply with specification and other requirements for technical acceptability conforming in every material respect with those of this solicitation; and

(3) The product offered under this solicitation will be produced under a resulting contract at the same plant in which the previously acquired or tested product was produced.

**52.214-21 Descriptive Literature.**

As prescribed in [14.201-6\(p\)\(1\)](#), insert the following provision:

DESCRIPTIVE LITERATURE (APR 2002)

(a) “Descriptive literature,” as used in this provision, means information furnished by a bidder, such as cuts, illustrations, drawings, and brochures, that shows a product’s characteristics or construction or explains its operation. The term includes only that information required to evaluate the acceptability of the product and excludes other information for operating or maintaining the product.

(b) Descriptive literature is required to establish, for the purpose of evaluation and award, details of the product offered that are specified elsewhere in the solicitation and pertain to significant elements such as—

- (1) Design;
- (2) Materials;
- (3) Components;
- (4) Performance characteristics; and
- (5) Methods of manufacture, assembly, construction, or operation.

(c) Descriptive literature, required elsewhere in this solicitation, shall be—

- (1) Identified to show the item(s) of the offer to which it applies; and
- (2) Received by the time specified in this solicitation.

(d) If the bidder fails to submit descriptive literature on time, the Government will reject the bid, except that late descriptive literature sent by mail may be considered under the Late Submissions, Modifications, and Withdrawals of Bids provision of this solicitation.

(e) If the descriptive literature fails to show that the product offered conforms to the requirements of the solicitation, the Government will reject the bid.

(End of provision)

*Alternate I (Apr 2002).* As prescribed in [14.201-6\(p\)\(2\)](#), add the following paragraphs (f) and (g) to the basic provision:

(f) The Contracting Officer may waive the requirement for furnishing descriptive literature if the offeror has supplied a product that is the same as that required by this solicitation under a prior contract. A bidder that requests a waiver of this requirement shall provide the following information:

Prior contract number \_\_\_\_\_

Date of prior contract \_\_\_\_\_

Contract line item number of product supplied \_\_\_\_\_

Name and address of Government activity to which delivery was made \_\_\_\_\_

Date of final delivery of product supplied \_\_\_\_\_

(g) Bidders shall submit bids on the basis of required descriptive literature or on the basis of a previously supplied product under paragraph (f) of this provision. A bidder submitting a bid on one of these two bases may not elect to have its bid considered on the alternative basis after the time specified for receipt of bids. The Government will disregard a bidder's request for a waiver under paragraph (f) if that bidder has submitted the descriptive literature requested under this solicitation.

#### 52.214-22 Evaluation of Bids for Multiple Awards.

As prescribed in [14.201-6\(q\)](#), insert the following provision:

##### EVALUATION OF BIDS FOR MULTIPLE AWARDS (MAR 1990)

In addition to other factors, bids will be evaluated on the basis of advantages and disadvantages to the Government that might result from making more than one award (multiple awards). It is assumed, for the purpose of evaluating bids, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under this solicitation, and individual awards will be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(End of provision)

#### 52.214-23 Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals under Two-Step Sealed Bidding.

As prescribed in [14.201-6\(r\)](#), insert the following provision:

##### LATE SUBMISSIONS, MODIFICATIONS, REVISIONS, AND WITHDRAWALS OF TECHNICAL PROPOSALS UNDER TWO- STEP SEALED BIDDING (NOV 1999)

(a) Bidders are responsible for submitting technical proposals, and any modifications or revisions, so as to reach the Government office designated in the request for technical proposals by the time specified in the invitation for bids (IFB). If no time is specified in the IFB, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that bids or revisions are due.

(b)(1) Any technical proposal under step one of two-step sealed bidding, modification, revision, or withdrawal of such proposal received at the Government office designated in the request for technical proposals after the exact time specified for receipt will not be considered unless the Contracting Officer determines that accepting the late technical proposal would not unduly delay the acquisition; and—

(i) If it was transmitted through an electronic commerce method authorized by the request for technical proposals, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(ii) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt; or

(iii) It is the only proposal received and it is negotiated under [Part 15](#) of the Federal Acquisition Regulation.

(2) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the technical proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that technical proposals cannot be received at the Government office designated for receipt of technical proposals by the exact time specified in the request for technical proposals, and urgent Government requirements preclude amendment of the request for technical proposals, the time specified for receipt of technical proposals will be deemed to be extended to the same time of day specified in the request for technical proposals on the first work day on which normal Government processes resume.

(e) Technical proposals may be withdrawn by written notice received at any time before the exact time set for receipt of technical proposals. If the request for technical proposals authorizes facsimile technical proposals, they may be withdrawn via facsimile received at any time before the exact time set for receipt of proposals, subject to the conditions specified in the provision at [52.214-31](#), Facsimile Bids. A technical proposal may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for receipt of technical proposals, the identity of the person requesting withdrawal is established and the person signs a receipt for the technical proposal.

(End of provision)

#### **52.214-24 Multiple Technical Proposals.**

As prescribed in [14.201-6\(s\)](#), insert the following provision:

##### MULTIPLE TECHNICAL PROPOSALS (APR 1984)

In the first step of this two-step acquisition, solicited sources are encouraged to submit multiple technical proposals presenting different basic approaches. Each technical proposal submitted will be separately evaluated and the submitter will be notified as to its acceptability.

(End of provision)

#### **52.214-25 Step Two of Two-Step Sealed Bidding.**

As prescribed in [14.201-6\(t\)](#), insert the following provision:

##### STEP TWO OF TWO-STEP SEALED BIDDING (APR 1985)

(a) This invitation for bids is issued to initiate step two of two-step sealed bidding under [Subpart 14.5](#) of the Federal Acquisition Regulation.

(b) The only bids that the Contracting Officer may consider for award of a contract are those received from bidders that have submitted acceptable technical proposals in step one of this acquisition under \_\_\_\_\_ [*the Contracting Officer shall insert the identification of the step-one request for technical proposals*].

(c) Any bidder that has submitted multiple technical proposals in step one of this acquisition may submit a separate bid on each technical proposal that was determined to be acceptable to the Government.

(End of provision)

#### **52.214-26 Audit and Records—Sealed Bidding.**

As prescribed in [14.201-7\(a\)\(1\)](#), insert the following clause:

##### AUDIT AND RECORDS—SEALED BIDDING (OCT 2010)

(a) As used in this clause, “records” includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) *Certified cost or pricing data.* If the Contractor has been required to submit certified cost or pricing data in connection with the pricing of any modification to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the certified cost or pricing data, shall have the right to examine and audit all of the Contractor’s records, including computations and projections, related to—

- (1) The proposal for the modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the modification; or
- (4) Performance of the modification.

(c) *Comptroller General.* In the case of pricing any modification, the Comptroller General of the United States, or an authorized representative, shall have the same rights as specified in paragraph (b) of this clause and also the right to interview any current employee regarding such transactions.

(d) *Availability.* The Contractor shall make available at its office at all reasonable times the materials described in paragraph (b) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract, or for any other period specified in [Subpart 4.7](#) of the Federal Acquisition Regulation (FAR). FAR [Subpart 4.7](#), Contractor Records Retention, in effect on the date of this contract, is incorporated by reference in its entirety and made a part of this contract.



(1) If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement.

(2) Records pertaining to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to the performance of this contract shall be made available until disposition of such appeals, litigation, or claims.

(e) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts expected to exceed the threshold in FAR [15.403-4](#)(a)(1) for submission of certified cost or pricing data.

(End of clause)

*Alternate I (Mar 2009).* As prescribed in [14.201-7](#)(a)(2), substitute the following paragraphs (c) and (e) for paragraphs (c) and (e) of the basic clause:

(c) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 ([5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials, shall have access to and the right to—

(1) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract or a subcontract hereunder; and

(2) Interview any officer or employee regarding such transactions.

(e)(1) Except as provided in paragraph (e)(2), the Contractor shall insert a clause containing the provisions of this clause, including this paragraph (e), in all subcontracts.

(2) The authority of the Inspector General under paragraph (c)(2) of this clause does not flow down to subcontracts.

#### **52.214-27 Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding.**

As prescribed in [14.201-7](#)(b), insert the following clause:

##### **PRICE REDUCTION FOR DEFECTIVE CERTIFIED COST OR PRICING DATA—MODIFICATIONS—SEALED BIDDING (AUG 2011)**

(a) This clause shall become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for the submission of certified cost or pricing data at FAR [15.403-4](#)(a)(1), except that this clause does not apply to a modification if an exception under FAR [15.403-1](#)(b) applies.

(b) If any price, including profit, negotiated in connection with any modification under this clause, was increased by any significant amount because (1) the Contractor or a subcontractor furnished certified cost or pricing data that were not complete, accurate, and current as certified in its Certificate of

Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor certified cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which (1) the actual subcontract or (2) the actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective certified cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current certified cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the certified cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if—

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the certified cost or pricing data were available before the date of agreement on the price of the contract (or price of the modification) and that the data were not submitted before such date.

(ii) An offset shall not be allowed if—

(A) The understated data was known by the Contractor to be understated when the Certificate of Current Cost or Pricing Data was signed; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the date of agreement on price.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid—

(1) Interest compounded daily, as required by [26 U.S.C. 6622](#), the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under [26 U.S.C. 6621\(a\)\(2\)](#); and

(2) A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted certified cost or pricing data which were incomplete, inaccurate, or noncurrent.

(End of clause)

#### **52.214-28 Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding.**

As prescribed in [14.201-7\(c\)](#), insert the following clause in solicitations and contracts:

##### **SUBCONTRACTOR CERTIFIED COST OR PRICING DATA— MODIFICATIONS—SEALED BIDDING (OCT 2010)**

(a) The requirements of paragraphs (b) and (c) of this clause shall—

(1) Become operative only for any modification to this contract involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of certified cost or pricing data at FAR [15.403-4\(a\)\(1\)](#); and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of certified cost or pricing data at FAR [15.403-4\(a\)\(1\)](#), on the date of agreement on price or the date of award, whichever is later, or before pricing any subcontract modifications involving aggregate increases and/or decreases in costs, plus applicable profits, expected to exceed the threshold for submission of certified cost or pricing data at FAR [15.403-4\(a\)\(1\)](#), the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), as part of the subcontractor's proposal in accordance with FAR [15.408](#), Table [15-2](#) (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental

factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR [15.403-1\(b\)](#) applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR subsection [15.406-2](#) that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that, when entered into, exceeds the threshold for submission of certified cost or pricing data at FAR [15.403-4\(a\)\(1\)](#).

(End of clause)

#### **52.214-29 Order of Precedence—Sealed Bidding.**

As prescribed in [14.201-7\(d\)](#), insert the following clause:

##### **ORDER OF PRECEDENCE—SEALED BIDDING (JAN 1986)**

Any inconsistency in this solicitation or contract shall be resolved by giving precedence in the following order:

- (a) The Schedule (excluding the specifications);
- (b) Representations and other instructions;
- (c) Contract clauses;
- (d) Other documents, exhibits, and attachments; and
- (e) The specifications.

(End of clause)

#### **52.214-30 [Reserved]**

#### **52.214-31 Facsimile Bids.**

As prescribed in [14.201-6\(v\)](#), insert the following provision:

##### **FACSIMILE BIDS (DEC 1989)**

(a) *Definition.* "Facsimile bid," as used in this solicitation, means a bid, modification of a bid, or withdrawal of a bid that is transmitted to and received by the Government via electronic equipment that communicates and reproduces both printed and handwritten material.

(b) Bidders may submit facsimile bids as responses to this solicitation. These responses must arrive at the place and by the time, specified in the solicitation.

(c) Facsimile bids that fail to furnish required representations or information or that reject any of the terms, conditions, and provisions of the solicitation may be excluded from consideration.

(d) Facsimile bids must contain the required signatures.

(e) The Government reserves the right to make award solely on the facsimile bid. However, if requested to do so by the Contracting Officer, the apparently successful bidder agrees to promptly submit the complete original signed bid.

(f) Facsimile receiving data and compatibility characteristics are as follows:

(1) Telephone number of receiving facsimile equipment: \_\_\_\_\_

(2) Compatibility characteristics of receiving facsimile equipment (*e.g.*, make and model number, receiving speed, communications protocol): \_\_\_\_\_

(g) If the bidder chooses to transmit a facsimile bid, the Government will not be responsible for any failure attributable to the transmission or receipt of the facsimile bid including, but not limited to, the following:

(1) Receipt of garbled or incomplete bid.

(2) Availability or condition of the receiving facsimile equipment.

(3) Incompatibility between the sending and receiving equipment.

(4) Delay in transmission or receipt of bid.

(5) Failure of the bidder to properly identify the bid.

(6) Illegibility of bid.

(7) Security of bid data.

(End of provision)

**52.214-32 [Reserved]**

**52.214-33 [Reserved]**

**52.214-34 Submission of Offers in the English Language.**

As prescribed in [14.201-6\(w\)](#), insert the following provision:

SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE  
(APR 1991)

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(End of provision)

**52.214-35 Submission of Offers in U.S. Currency.**

As prescribed in [14.201-6\(x\)](#), insert the following provision:

SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991)

Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.

(End of provision)

This page intentionally left blank.

(b) Consistent with the requirements of section 3(e) of Executive Order 13423, the Contractor shall establish a program to promote cost-effective waste reduction in all operations and facilities covered by this contract. The Contractor’s programs shall comply with applicable Federal, State, and local requirements, specifically including Section 6002 of the Resource Conservation and Recovery Act ([42 U.S.C. 6962, et seq.](#)) and implementing regulations (40 CFR Part 247).

(End of clause)

**52.223-11 Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons.**

As prescribed in [23.804\(a\)\(1\)](#), insert the following clause:

OZONE-DEPLETING SUBSTANCES AND HIGH GLOBAL WARMING POTENTIAL HYDROFLUOROCARBONS  
(JUN 2016)

(a) *Definition.* As used in this clause—

“Global warming potential” means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide’s global warming potential is defined as 1.0.

“High global warming potential hydrofluorocarbons” means any hydrofluorocarbons in a particular end use for which EPA’s Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR Part 82 subpart G with supplemental tables of alternatives available at (<http://www.epa.gov/snap/>).

“Hydrofluorocarbons” means compounds that only contain hydrogen, fluorine, and carbon.

“Ozone-depleting substance,” means any substance the Environmental Protection Agency designates in 40 CFR Part 82 as—

(1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or

(2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products that contain or are manufactured with ozone-depleting substances in the manner and to the extent required by [42 U.S.C. 7671j](#)(b), (c), (d), and (e) and 40 CFR part 82, subpart E, as follows:

WARNING

Contains (or manufactured with, if applicable) \* \_\_\_\_\_, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

\* The Contractor shall insert the name of the substance(s).

(c) *Reporting.* For equipment and appliances that normally each contain 50 or more pounds of hydrofluorocarbons or

refrigerant blends containing hydrofluorocarbons, the Contractor shall—

(1) Track on an annual basis, between October 1 and September 30, the amount in pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons contained in the equipment and appliances delivered to the Government under this contract by—

(i) Type of hydrofluorocarbon (*e.g.*, HFC-134a, HFC-125, R-410A, R-404A, *etc.*);

(ii) Contract number; and

(iii) Equipment/appliance;

(2) Report that information to the Contracting Officer for FY16 and to [www.sam.gov](http://www.sam.gov), for FY17 and after—

(i) Annually by November 30 of each year during contract performance; and

(ii) At the end of contract performance.

(d) The Contractor shall refer to EPA’s SNAP program (available at <http://www.epa.gov/snap>) to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables available at <http://www.epa.gov/snap>.

(End of clause)

**52.223-12 Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.**

As prescribed in [23.804\(a\)\(2\)](#), insert the following clause:

MAINTENANCE, SERVICE, REPAIR, OR DISPOSAL OF REFRIGERATION EQUIPMENT AND AIR CONDITIONERS.  
(JUN 2016)

(a) *Definitions.* As used in this clause—

“Global warming potential” means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide’s global warming potential is defined as 1.0.

“High global warming potential hydrofluorocarbons” means any hydrofluorocarbons in a particular end use for which EPA’s Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables of alternatives available at (<http://www.epa.gov/snap/>).

“Hydrofluorocarbons” means compounds that contain only hydrogen, fluorine, and carbon.

(b) The Contractor shall comply with the applicable requirements of sections 608 and 609 of the Clean Air Act ([42 U.S.C. 7671g and 7671h](#)) as each or both apply to this contract.

(c) Unless otherwise specified in the contract, the Contractor shall reduce the use, release, or emissions of high global warming potential hydrofluorocarbons under this contract by—

(1) Transitioning over time to the use of another acceptable alternative in lieu of high global warming potential hydrofluorocarbons in a particular end use for which EPA's SNAP program has identified other acceptable alternatives that have lower global warming potential;

(2) Preventing and repairing refrigerant leaks through service and maintenance during contract performance;

(3) Implementing recovery, recycling, and responsible disposal programs that avoid release or emissions during equipment service and as the equipment reaches the end of its useful life; and

(4) Using reclaimed hydrofluorocarbons, where feasible.

(d) For equipment and appliances that normally each contain 50 or more pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons, that will be maintained, serviced, repaired, or disposed under this contract, the Contractor shall—

(1) Track on an annual basis, between October 1 and September 30, the amount in pounds of hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons added or taken out of equipment or appliances under this contract by—

(i) Type of hydrofluorocarbon (*e.g.*, HFC-134a, HFC-125, R-410A, R-404A, *etc.*);

(ii) Contract number;

(iii) Equipment/appliance; and

(2) Report that information to the Contracting Officer for FY16 and to [www.sam.gov](http://www.sam.gov), for FY17 and after—

(i) No later than November 30 of each year during contract performance; and

(ii) At the end of contract performance.

(e) The Contractor shall refer to EPA's SNAP program to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables available at <http://www.epa.gov/snap/>.

(End of clause)

### 52.223-13 Acquisition of EPEAT®-Registered Imaging Equipment.

As prescribed in [23.705\(b\)\(1\)](#), insert the following clause:

#### ACQUISITION OF EPEAT®-REGISTERED IMAGING EQUIPMENT (JUN 2014)

(a) *Definitions.* As used in this clause—

“Imaging equipment” means the following products:

(1) *Copier*-A commercially available imaging product with a sole function of the production of hard copy duplicates from graphic hard-copy originals. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as copiers or upgradeable digital copiers (UDCs).

(2) *Digital duplicator*-A commercially available imaging product that is sold in the market as a fully automated

duplicator system through the method of stencil duplicating with digital reproduction functionality. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as digital duplicators.

(3) *Facsimile machine (fax machine)*-A commercially available imaging product whose primary functions are scanning hard-copy originals for electronic transmission to remote units and receiving similar electronic transmissions to produce hard-copy output. Electronic transmission is primarily over a public telephone system but also may be via computer network or the Internet. The product also may be capable of producing hard copy duplicates. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as fax machines.

(4) *Mailing machine*-A commercially available imaging product that serves to print postage onto mail pieces. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as mailing machines.

(5) *Multifunction device (MFD)*-A commercially available imaging product, which is a physically integrated device or a combination of functionally integrated components, that performs two or more of the core functions of copying, printing, scanning, or faxing. The copy functionality as addressed in this definition is considered to be distinct from single-sheet convenience copying offered by fax machines. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as MFDs or multifunction products.

(6) *Printer*-A commercially available imaging product that serves as a hard-copy output device and is capable of receiving information from single-user or networked computers, or other input devices (*e.g.*, digital cameras). The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as printers, including printers that can be upgraded into MFDs in the field.

(7) *Scanner*-A commercially available imaging product that functions as an electro-optical device for converting information into electronic images that can be stored, edited, converted, or transmitted, primarily in a personal computing environment. The unit is capable of being powered from a wall outlet or from a data or network connection. This definition is intended to cover products that are marketed as scanners.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only imaging equipment that, at the time of submission of proposals and at the time of award, was EPEAT® bronze-registered or higher.

(c) For information about EPEAT®, see [www.epa.gov/epeat/](http://www.epa.gov/epeat/).

(End of clause)

Alternate I (OCT 2015). As prescribed in 23.705(c)(2), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for contractor use at a Federally controlled facility, only imaging equipment that, at the time of submission of proposals and at the time of award, was EPEAT® silver-registered or gold-registered.

#### 52.223-14 Acquisition of EPEAT®-Registered Televisions.

As prescribed in 23.705(d)(1), insert the following clause:

##### ACQUISITION OF EPEAT®-REGISTERED TELEVISIONS (JUN 2014)

(a) *Definitions.* As used in this clause—

“Television” or “TV” means a commercially available electronic product designed primarily for the reception and display of audiovisual signals received from terrestrial, cable, satellite, Internet Protocol TV (IPTV), or other digital or analog sources. A TV consists of a tuner/receiver and a display encased in a single enclosure. The product usually relies upon a cathode-ray tube (CRT), liquid crystal display (LCD), plasma display, or other display technology. Televisions with computer capability (e.g., computer input port) may be considered to be a TV as long as they are marketed and sold to consumers primarily as televisions.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only televisions that, at the time of submission of proposals and at the time of award, were EPEAT® bronze-registered or higher.

(c) For information about EPEAT®, see [www.epa.gov/epeat/](http://www.epa.gov/epeat/).

Alternate I (JUN 2014). As prescribed in 23.705(d)(2), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only televisions that, at the time of submission of proposals and at the time of award, were EPEAT® silver-registered or gold-registered.

#### 52.223-15 Energy Efficiency in Energy-Consuming Products.

As prescribed in 23.206, insert the following clause:

##### ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007)

(a) *Definition.* As used in this clause—

“Energy-efficient product”— (1) Means a product that—

(i) Meets Department of Energy and Environmental Protection Agency criteria for use of the Energy Star trademark label; or

(ii) Is in the upper 25 percent of efficiency for all similar products as designated by the Department of Energy’s Federal Energy Management Program.

(2) The term “product” does not include any energy-consuming product or system designed or procured for combat or combat-related missions (42 U.S.C. 8259b).

(b) The Contractor shall ensure that energy-consuming products are energy efficient products (i.e., ENERGY STAR® products or FEMP-designated products) at the time of contract award, for products that are—

(1) Delivered;

(2) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(3) Furnished by the Contractor for use by the Government; or

(4) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.

(c) The requirements of paragraph (b) apply to the Contractor (including any subcontractor) unless—

(1) The energy-consuming product is not listed in the ENERGY STAR® Program or FEMP; or

(2) Otherwise approved in writing by the Contracting Officer.

(d) Information about these products is available for—

(1) ENERGY STAR® at <http://www.energystar.gov/products>; and

(2) FEMP at [http://www1.eere.energy.gov/femp/procurement/eeep\\_requirements.html](http://www1.eere.energy.gov/femp/procurement/eeep_requirements.html).

(End of clause)

#### 52.223-16 Acquisition of EPEAT®-Registered Personal Computer Products.

As prescribed in 23.705(b)(1), insert the following clause:

##### ACQUISITION OF EPEAT®-REGISTERED PERSONAL COMPUTER PRODUCTS (OCT 2015)

(a) *Definitions.* As used in this clause—

“Computer” means a device that performs logical operations and processes data. Computers are composed of, at a minimum.

(1) A central processing unit (CPU) to perform operations;

(2) User input devices such as a keyboard, mouse, digitizer, or game controller; and

(3) A computer display screen to output information. Computers include both stationary and portable units, includ-

ing desktop computers, integrated desktop computers, notebook computers, thin clients, and workstations. Although computers must be capable of using input devices and computer displays, as noted in (2) and (3) above, computer systems do not need to include these devices on shipment to meet this definition. This definition does not include server computers, gaming consoles, mobile telephones, portable handheld calculators, portable digital assistants (PDAs), MP3 players, or any other mobile computing device with displays less than 4 inches, measured diagonally.

“Computer display” means a display screen and its associated electronics encased in a single housing or within the computer housing (e.g., notebook or integrated desktop computer) that is capable of displaying output information from a computer via one or more inputs such as a VGA, DVI, USB, DisplayPort, and/or IEEE 1394-2008™, Standard for High Performance Serial Bus. Examples of computer display technologies are the cathode-ray tube (CRT) and liquid crystal display (LCD).

“Desktop computer” means a computer where the main unit is intended to be located in a permanent location, often on a desk or on the floor. Desktops are not designed for portability and utilize an external computer display, keyboard, and mouse. Desktops are designed for a broad range of home and office applications.

Integrated desktop computer means a desktop system in which the computer and computer display function as a single unit that receives its AC power through a single cable. Integrated desktop computers come in one of two possible forms:

(1) A system where the computer display and computer are physically combined into a single unit; or

(2) A system packaged as a single system where the computer display is separate but is connected to the main chassis by a DC power cord and both the computer and computer display are powered from a single power supply. As a subset of desktop computers, integrated desktop computers are typically designed to provide similar functionality as desktop systems

“Notebook computer” means a computer designed specifically for portability and to be operated for extended periods of time either with or without a direct connection to an AC power source. Notebooks must utilize an integrated computer display and be capable of operation off of an integrated battery or other portable power source. In addition, most notebooks use an external power supply and have an integrated keyboard and pointing device. Notebook computers are typically designed to provide similar functionality to desktops, including operation of software similar in functionality to that used in desktops. Docking stations are considered accessories for notebook computers, not notebook computers. Tablet PCs, which may use touch-sensitive screens along with, or instead of, other input devices, are considered notebook computers.

“Personal computer product” means a computer, computer display, desktop computer, integrated desktop computer, or notebook computer.

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only personal computer products that, at the time of submission of proposals and at the time of award, were EPEAT® bronze-registered or higher.

(c) For information about EPEAT®, see [www.epa.gov/PEAT](http://www.epa.gov/PEAT).

*Alternate I (JUN 2014).* As prescribed in [23.705\(b\)\(2\)](#), substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) Under this contract, the Contractor shall deliver, furnish for Government use, or furnish for Contractor use at a Federally controlled facility, only personal computer products that, at the time of submission of proposals and at the time of award, were EPEAT® silver-registered or gold-registered.

#### **52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.**

As prescribed in [23.406\(e\)](#), insert the following clause:

##### AFFIRMATIVE PROCUREMENT OF EPA-DESIGNATED ITEMS IN SERVICE AND CONSTRUCTION CONTRACTS (MAY 2008)

(a) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- (1) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (2) Meeting contract performance requirements; or
- (3) At a reasonable price.

(b) Information about this requirement is available at EPA’s Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designated items is available at <http://www.epa.gov/cpg/products.htm>.

(End of clause)

#### **52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving.**

As prescribed in [23.1105](#), insert the following clause:

##### ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

(a) *Definitions.* As used in this clause—

“Driving”—(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.



“Text messaging” means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009.

(c) The Contractor is encouraged to—

(1) Adopt and enforce policies that ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as—

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

(End of clause)

**52.223-19 Compliance with Environmental Management Systems.**

As prescribed in 23.903, insert the following clause:

COMPLIANCE WITH ENVIRONMENTAL MANAGEMENT SYSTEMS (MAY 2011)

The Contractor’s work under this contract shall conform with all operational controls identified in the applicable agency or facility Environmental Management Systems and provide monitoring and measurement information necessary for the Government to address environmental performance relative to the goals of the Environmental Management Systems.

(End of clause)

**52.223-20 Aerosols.**

As prescribed in 23.804(a)(3), insert the following clause:

AEROSOLS (JUN 2016)

(a) *Definitions.* As used in this clause—

“Global warming potential” means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide’s global warming potential is defined as 1.0.

“High global warming potential hydrofluorocarbons” means any hydrofluorocarbons in a particular end use for which EPA’s Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables of alternatives available at <http://www.epa.gov/snap/>.

“Hydrofluorocarbons” means compounds that contain only hydrogen, fluorine, and carbon.

(b) Unless otherwise specified in the contract, the Contractor shall reduce its use, release, or emissions of high global warming potential hydrofluorocarbons, when feasible, from aerosol propellants or solvents under this contract. When determining feasibility of using a particular alternative, the Contractor shall consider environmental, technical, and economic factors such as—

(1) In-use emission rates, energy efficiency;

(2) Safety, such as flammability or toxicity;

(3) Ability to meet technical performance requirements;

and

(4) Commercial availability at a reasonable cost.

(c) The Contractor shall refer to EPA’s SNAP program to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables available at <http://www.epa.gov/snap/>.

(End of clause)

**52.223-21 Foams.**

As prescribed in 23.804(a)(4), insert the following clause:

FOAMS (JUN 2016)

(a) *Definitions.* As used in this clause—

“Global warming potential” means how much a given mass of a chemical contributes to global warming over a given time period compared to the same mass of carbon dioxide. Carbon dioxide’s global warming potential is defined as 1.0.

“High global warming potential hydrofluorocarbons” means any hydrofluorocarbons in a particular end use for which EPA’s Significant New Alternatives Policy (SNAP) program has identified other acceptable alternatives that have lower global warming potential. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables of alternatives available at <http://www.epa.gov/snap/>.

“Hydrofluorocarbons” means compounds that contain only hydrogen, fluorine, and carbon.

(b) Unless otherwise specified in the contract, the Contractor shall reduce its use, release, and emissions of high global warming potential hydrofluorocarbons and refrigerant blends

containing hydrofluorocarbons, when feasible, from foam blowing agents, under this contract. When determining feasibility of using a particular alternative, the Contractor shall consider environmental, technical, and economic factors such as—

- (1) In-use emission rates, energy efficiency, and safety;
- (2) Ability to meet performance requirements; and
- (3) Commercial availability at a reasonable cost.

(c) The Contractor shall refer to EPA’s SNAP program to identify alternatives. The SNAP list of alternatives is found at 40 CFR part 82 subpart G with supplemental tables available at <http://www.epa.gov/snap/>.

(End of clause)

**52.223-22 Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.**

As prescribed in [23.804](#)(b), insert the following provision:

**PUBLIC DISCLOSURE OF GREENHOUSE GAS EMISSIONS AND REDUCTION GOALS-REPRESENTATION (DEC 2016)**

(a) This representation shall be completed if the Offeror received \$7.5 million or more in Federal contract awards in the prior Federal fiscal year. The representation is optional if the Offeror received less than \$7.5 million in Federal contract awards in the prior Federal fiscal year.

(b) *Representation.* [Offeror is to check applicable blocks in paragraphs (1) and (2).]

(1) The Offeror (itself or through its immediate owner or highest-level owner)  does,  does not publicly disclose greenhouse gas emissions, i.e., make available on a publicly accessible website the results of a greenhouse gas inventory, performed in accordance with an accounting standard with publicly available and consistently applied criteria, such as the Greenhouse Gas Protocol Corporate Standard.

(2) The Offeror (itself or through its immediate owner or highest-level owner)  does,  does not publicly disclose a quantitative greenhouse gas emissions reduction goal, i.e., make available on a publicly available website a target to reduce absolute emissions or emissions intensity by a specific quantity or percentage.

(3) A publicly accessible website includes the Offeror’s own website or a recognized, third-party greenhouse gas emissions reporting program.

(c) If the Offeror checked “does” in paragraphs (b)(1) or (b)(2) of this provision, respectively, the Offeror shall provide the publicly accessible website(s) where greenhouse gas emissions and/or reduction goals are reported:\_\_\_\_\_.

**52.224-1 Privacy Act Notification.**

As prescribed in [24.104](#), insert the following clause in solicitations and contracts, when the design, development, or

operation of a system of records on individuals is required to accomplish an agency function:

PRIVACY ACT NOTIFICATION (APR 1984)

The Contractor will be required to design, develop, or operate a system of records on individuals, to accomplish an agency function subject to the Privacy Act of 1974, Public Law 93-579, December 31, 1974 ([5 U.S.C. 552a](#)) and applicable agency regulations. Violation of the Act may involve the imposition of criminal penalties.

(End of clause)

**52.224-2 Privacy Act.**

As prescribed in [24.104](#), insert the following clause in solicitations and contracts, when the design, development, or operation of a system of records on individuals is required to accomplish an agency function:

PRIVACY ACT (APR 1984)

(a) The Contractor agrees to—

(1) Comply with the Privacy Act of 1974 (the Act) and the agency rules and regulations issued under the Act in the design, development, or operation of any system of records on individuals to accomplish an agency function when the contract specifically identifies—

(i) The systems of records; and

(ii) The design, development, or operation work that the contractor is to perform;

(2) Include the Privacy Act notification contained in this contract in every solicitation and resulting subcontract and in every subcontract awarded without a solicitation, when the work statement in the proposed subcontract requires the redesign, development, or operation of a system of records on individuals that is subject to the Act; and

(3) Include this clause, including this paragraph (3), in all subcontracts awarded under this contract which requires the design, development, or operation of such a system of records.

(b) In the event of violations of the Act, a civil action may be brought against the agency involved when the violation concerns the design, development, or operation of a system of records on individuals to accomplish an agency function, and criminal penalties may be imposed upon the officers or employees of the agency when the violation concerns the operation of a system of records on individuals to accomplish an agency function. For purposes of the Act, when the contract is for the operation of a system of records on individuals to accomplish an agency function, the Contractor is considered to be an employee of the agency.

(c)(1) “Operation of a system of records,” as used in this clause, means performance of any of the activities associated with maintaining the system of records, including the collection, use, and dissemination of records.

(2) “Record,” as used in this clause, means any item, collection, or grouping of information about an individual that

is maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and that contains the person’s name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint or voiceprint or a photograph.

(3) “System of records on individuals,” as used in this clause, means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

(End of clause)

**52.225-1 Buy American—Supplies**

As prescribed in [25.1101\(a\)\(1\)](#), insert the following clause:

BUY AMERICAN—SUPPLIES (MAY 2014)

(a) *Definitions.* As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));

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

(iii) 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

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into an end product.

“Cost of components” means—

(3) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (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

(4) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

“Domestic end product” means—

(1) An unmanufactured end product mined or produced in the United States;

(2) An end product manufactured in the United States, if—

(i) 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 as those that the agency determines are

not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

(ii) The end product is a COTS item.

“End product” means those articles, materials, and supplies to be acquired under the contract for public use.

“Foreign end product” means an end product other than a domestic end product.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) [41 U.S.C. chapter 83](#), Buy American, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for an end product that is a COTS item (See [12.505\(a\)\(1\)](#)).

(c) Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(d) The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the solicitation entitled “Buy American Certificate.”

(End of clause)

**52.225-2 Buy American Certificate.**

As prescribed in [25.1101\(a\)\(2\)](#), insert the following provision:

BUY AMERICAN CERTIFICATE (MAY 2014)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product and that for other than COTS items, 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, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.” The terms “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Supplies.”

(b) Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of [Part 25](#) of the Federal Acquisition Regulation.

(End of provision)

**52.225-3 Buy American—Free Trade Agreements-Israeli Trade Act.**

As prescribed in [25.1101\(b\)\(1\)\(i\)](#), insert the following clause:

BUY AMERICAN—FREE TRADE AGREEMENTS-ISRAELI  
TRADE ACT (MAY 2014)

(a) *Definitions.* As used in this clause—

“Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Bahrain, Morocco, Oman, Panama, or Peru; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain, Morocco, Oman, Panama, or Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));

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

(iii) 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

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into an end product.

“Cost of components” means—

(3) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (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

(4) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of

this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.

“Domestic end product” means—

(1) An unmanufactured end product mined or produced in the United States;

(2) An end product manufactured in the United States, if—

(i) 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 as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic; or

(ii) The end product is a COTS item.

“End product” means those articles, materials, and supplies to be acquired under the contract for public use.

“Foreign end product” means an end product other than a domestic end product.

“Free Trade Agreement country” means Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore.

“Free Trade Agreement country end product” means an article that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Israeli end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Israel; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Israel into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) *Components of foreign origin.* Offerors may obtain from the Contracting Officer a list of foreign articles that the Contracting Officer will treat as domestic for this contract.

(c) *Delivery of end products.* [41 U.S.C. chapter 83](#), Buy American statute, provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for an end product that is a COTS item (See [12.505\(a\)\(1\)](#)). In addition, the Contracting Officer has determined that FTAs (except the Bahrain, Morocco, Oman, Panama, and Peru FTAs) and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Free Trade Agreement country end product (other than a Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product) or an Israeli end product, then the Contractor shall supply a Free Trade Agreement country end product (other than a Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product), an Israeli end product or, at the Contractor’s option, a domestic end product.

*Alternate I (May 2014).* As prescribed in [25.1101\(b\)\(1\)\(ii\)](#), add the following definition to paragraph (a) of the basic clause, and substitute the following paragraph (c) for paragraph (c) of the basic clause:

“Canadian end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products.* [41 U.S.C. chapter 83](#) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for an end product that is a COTS item (See [12.505\(a\)\(1\)](#)). In addition, the Contracting Officer has determined that NAFTA applies to this acquisition. Unless otherwise specified, NAFTA applies to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American—

Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Canadian end product, then the Contractor shall supply a Canadian end product or, at the Contractor’s option, a domestic end product.

*Alternate II (May 2014).* As prescribed in [25.1101\(b\)\(1\)\(iii\)](#), add the following definition to paragraph (a) of the basic clause, and substitute the following paragraph (c) for paragraph (c) of the basic clause:

“Canadian end product” means an article that—

(1) Is wholly the growth, product, or manufacture of Canada; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Canada into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products.* [41 U.S.C. chapter 83](#) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for an end product that is a COTS item (See [12.505\(a\)\(1\)](#)). In addition, the Contracting Officer has determined that NAFTA and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Canadian end product or an Israeli end product, then the Contractor shall supply a Canadian end product, an Israeli end product or, at the Contractor’s option, a domestic end product.

*Alternate III (May 2014).* As prescribed in [25.1101\(b\)\(1\)\(iv\)](#), delete the definition of “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product” and add in its place the following definition of “Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end product” in paragraph (a) of the basic clause; and substitute the following paragraph (c) for paragraph (c) of the basic clause:

*Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end product* means an article that—

(1) Is wholly the growth, product, or manufacture of Bahrain, Korea (Republic of), Morocco, Oman, Panama, or Peru; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain, Korea (Republic of), Morocco,

Oman, Panama, or Peru into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(c) *Delivery of end products.* [41 U.S.C. chapter 83](#) provides a preference for domestic end products for supplies acquired for use in the United States. In accordance with [41 U.S.C. 1907](#), the component test of the Buy American statute is waived for an end product that is a COTS item (See [12.505\(a\)\(1\)](#)). In addition, the Contracting Officer has determined that FTAs (except the Bahrain, Korea (Republic of), Morocco, Oman, Panama, and Peru FTAs) and the Israeli Trade Act apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only domestic end products except to the extent that, in its offer, it specified delivery of foreign end products in the provision entitled “Buy American—Free Trade Agreements—Israeli Trade Act Certificate.” If the Contractor specified in its offer that the Contractor would supply a Free Trade Agreement country end product (other than a Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end product) or an Israeli end product, then the Contractor shall supply a Free Trade Agreement country end product (other than a Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end product), an Israeli end product or, at the Contractor’s option, a domestic end product.

#### **52.225-4 Buy American—Free Trade Agreements-Israli Trade Act Certificate.**

As prescribed in [25.1101\(b\)\(2\)\(i\)](#), insert the following provision:

BUY AMERICAN—FREE TRADE AGREEMENTS-ISRAELI  
TRADE ACT CERTIFICATE (MAY 2014)

(a) The offeror certifies that each end product, except those listed in paragraph (b) or (c) of this provision, is a domestic end product and that for other than COTS items, the offeror has considered components of unknown origin to have been mined, produced, or manufactured outside the United States. The terms “Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end product,” “commercially available off-the-shelf (COTS) item,” “component,” “domestic end product,” “end product,” “foreign end product,” “Free Trade Agreement country,” “Free Trade Agreement country end product,” “Israeli end product,” and “United States” are defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.”

(b) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of

this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The offeror shall list those supplies that are foreign end products (other than those listed in paragraph (b) of this provision) as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act.” The offeror shall list as other foreign end products those end products manufactured in the United States that do not qualify as domestic end products, *i.e.*, an end product that is not a COTS item and does not meet the component test in paragraph (2) of the definition of “domestic end product.”

Other Foreign End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(d) The Government will evaluate offers in accordance with the policies and procedures of [Part 25](#) of the Federal Acquisition Regulation.

(End of provision)

*Alternate I (May 2014).* As prescribed in [25.1101\(b\)\(2\)\(ii\)](#), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Canadian End Products:

LINE ITEM NO.
_____
_____
_____

[List as necessary]

*Alternate II (May 2014).* As prescribed in [25.1101\(b\)\(2\)\(iii\)](#), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Canadian end products or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

CANADIAN OR ISRAELI END PRODUCTS:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

*Alternate III (May 2014).* As prescribed in [25.1101\(b\)\(2\)\(iv\)](#), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) The offeror certifies that the following supplies are Free Trade Agreement country end products (other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian end products) or Israeli end products as defined in the clause of this solicitation entitled “Buy American—Free Trade Agreements—Israeli Trade Act”:

Free Trade Agreement Country End Products (Other than Bahrainian, Korean, Moroccan, Omani, Panamanian, or Peruvian End Products) or Israeli End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

**52.225-5 Trade Agreements.**

As prescribed in [25.1101\(c\)\(1\)](#), insert the following clause:

TRADE AGREEMENTS (OCT 2016)

(a) *Definitions.* As used in this clause—  
“Caribbean Basin country end product”—

(1) Means an article that—

(i)(A) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(B) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed; and

(ii) Is not excluded from duty-free treatment for Caribbean countries under [19 U.S.C. 2703\(b\)](#).

(A) For this reason, the following articles are not Caribbean Basin country end products:

(1) Tuna, prepared or preserved in any manner in airtight containers;

(2) Petroleum, or any product derived from petroleum;

(3) Watches and watch parts (including cases, bracelets, and straps) of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Harmonized Tariff Schedule of the United States (HTSUS) column 2 rates of duty apply (*i.e.*, Afghanistan, Cuba, Laos, North Korea, and Vietnam); and

(4) Certain of the following: textiles and apparel articles; footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel; or handloomed, handmade, and folklore articles;

(B) Access to the HTSUS to determine duty-free status of articles of these types is available at <http://www.usitc.gov/tata/hts/>. In particular, see the following:

(1) General Note 3(c), Products Eligible for Special Tariff treatment.

(2) General Note 17, Products of Countries Designated as Beneficiary Countries under the United States-Caribbean Basin Trade Partnership Act of 2000.

(3) Section XXII, Chapter 98, Subchapter II, Articles Exported and Returned, Advanced or Improved Abroad, U.S. Note 7(b).

(4) Section XXII, Chapter 98, Subchapter XX, Goods Eligible for Special Tariff Benefits under the United States-Caribbean Basin Trade Partnership Act; and

(2) Refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the acquisition, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as “the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)”), Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

“Designated country end product” means a WTO GPA country end product, an FTA country end product, a least developed country end product, or a Caribbean Basin country end product.

“End product” means those articles, materials, and supplies to be acquired under the contract for public use.

“Free Trade Agreement country end product” means an article that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in an FTA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

“Least developed country end product” means an article that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product, includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself. “United States” means the 50 States, the District of Columbia, and outlying areas.

“U.S.-made end product” means an article that is mined, produced, or manufactured in the United States or that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

“WTO GPA country end product” means an article that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services, (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

(b) *Delivery of end products.* The Contracting Officer has determined that the WTO GPA and FTAs apply to this acquisition. Unless otherwise specified, these trade agreements apply to all items in the Schedule. The Contractor shall deliver under this contract only U.S.-made or designated country end products except to the extent that, in its offer, it specified delivery of other end products in the provision entitled “Trade Agreements Certificate.”

(End of clause)

**52.225-6 Trade Agreements Certificate.**

As prescribed in [25.1101\(c\)\(2\)](#), insert the following provision:

TRADE AGREEMENTS CERTIFICATE (MAY 2014)

(a) The offeror certifies that each end product, except those listed in paragraph (b) of this provision, is a U.S.-made or designated country end product, as defined in the clause of this solicitation entitled “Trade Agreements.”

(b) The offeror shall list as other end products those supplies that are not U.S.-made or designated country end products.

Other End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
_____	_____
_____	_____
_____	_____

[List as necessary]

(c) The Government will evaluate offers in accordance with the policies and procedures of [Part 25](#) of the Federal Acquisition Regulation. For line items covered by the WTO GPA, the Government will evaluate offers of U.S.-made or



designated country end products without regard to the restrictions of the Buy American statute. The Government will consider for award only offers of U.S.-made or designated country end products unless the Contracting Officer determines that there are no offers for such products or that the offers for those products are insufficient to fulfill the requirements of this solicitation.

(End of provision)

#### **52.225-7 Waiver of Buy American Statute for Civil Aircraft and Related Articles.**

As prescribed in [25.1101](#)(d), insert the following provision:

##### WAIVER OF BUY AMERICAN STATUTE FOR CIVIL AIRCRAFT AND RELATED ARTICLES (FEB 2016)

(a) *Definition.* “Civil aircraft and related articles,” as used in this provision, means—

(1) All aircraft other than aircraft to be purchased for use by the Department of Defense or the U.S. Coast Guard;

(2) The engines (and parts and components for incorporation into the engines) of these aircraft;

(3) Any other parts, components, and subassemblies for incorporation into the aircraft; and

(4) Any ground flight simulators, and parts and components of these simulators, for use with respect to the aircraft, whether to be used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of the aircraft, and without regard to whether the aircraft or articles receive duty-free treatment under section 601(a)(2) of the Trade Agreements Act.

(b) The U.S. Trade Representative has waived the Buy American statute for acquisitions of civil aircraft and related articles from countries that are parties to the Agreement on Trade in Civil Aircraft. Those countries are Albania, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Macao China, Malta, Montenegro, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, Taiwan (Chinese Taipei), and the United Kingdom.

(c) For the purpose of this waiver, an article is a product of a country only if—

(1) It is wholly the growth, product, or manufacture of that country; or

(2) In the case of an article that consists in whole or in part of materials from another country, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.

(d) The waiver is subject to modification or withdrawal by the U.S. Trade Representative.

(End of provision)

#### **52.225-8 Duty-Free Entry.**

As prescribed in [25.1101](#)(e), insert the following clause:

##### DUTY-FREE ENTRY (OCT 2010)

(a) *Definition.* “Customs territory of the United States” means the States, the District of Columbia, and Puerto Rico.

(b) Except as otherwise approved by the Contracting Officer, the Contractor shall not include in the contract price any amount for duties on supplies specifically identified in the Schedule to be accorded duty-free entry.

(c) Except as provided in paragraph (d) of this clause or elsewhere in this contract, the following procedures apply to supplies not identified in the Schedule to be accorded duty-free entry:

(1) The Contractor shall notify the Contracting Officer in writing of any purchase of foreign supplies (including, without limitation, raw materials, components, and intermediate assemblies) in excess of \$15,000 that are to be imported into the customs territory of the United States for delivery to the Government under this contract, either as end products or for incorporation into end products. The Contractor shall furnish the notice to the Contracting Officer at least 20 calendar days before the importation. The notice shall identify the—

(i) Foreign supplies;

(ii) Estimated amount of duty; and

(iii) Country of origin.

(2) The Contracting Officer will determine whether any of these supplies should be accorded duty-free entry and will notify the Contractor within 10 calendar days after receipt of the Contractor’s notification.

(3) Except as otherwise approved by the Contracting Officer, the contract price shall be reduced by (or the allowable cost shall not include) the amount of duty that would be payable if the supplies were not entered duty-free.

(d) The Contractor is not required to provide the notification under paragraph (c) of this clause for purchases of foreign supplies if—

(1) The supplies are identical in nature to items purchased by the Contractor or any subcontractor in connection with its commercial business; and

(2) Segregation of these supplies to ensure use only on Government contracts containing duty-free entry provisions is not economical or feasible.

(e) The Contractor shall claim duty-free entry only for supplies to be delivered to the Government under this contract, either as end products or incorporated into end products, and shall pay duty on supplies, or any portion of them, other than scrap, salvage, or competitive sale authorized by the Contracting Officer, diverted to nongovernmental use.

(f) The Government will execute any required duty-free entry certificates for supplies to be accorded duty-free entry and will assist the Contractor in obtaining duty-free entry for these supplies.

(g) Shipping documents for supplies to be accorded duty-free entry shall consign the shipments to the contracting agency in care of the Contractor and shall include the—

(1) Delivery address of the Contractor (or contracting agency, if appropriate);

(2) Government prime contract number;

(3) Identification of carrier;

(4) Notation “UNITED STATES GOVERNMENT, \_\_\_\_\_ [agency] \_\_\_\_\_, Duty-free entry to be claimed pursuant to Item No(s) \_\_\_\_\_ [from *Tariff Schedules*] \_\_\_\_\_, Harmonized Tariff Schedules of the United States. Upon arrival of shipment at port of entry, District Director of Customs, please release shipment under 19 CFR Part 142 and notify [cognizant contract administration office] for execution of Customs Forms 7501 and 7501-A and any required duty-free entry certificates.”;

(5) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight); and

(6) Estimated value in United States dollars.

(h) The Contractor shall instruct the foreign supplier to—

(1) Consign the shipment as specified in paragraph (g) of this clause;

(2) Mark all packages with the words “UNITED STATES GOVERNMENT” and the title of the contracting agency; and

(3) Include with the shipment at least two copies of the bill of lading (or other shipping document) for use by the District Director of Customs at the port of entry.

(i) The Contractor shall provide written notice to the cognizant contract administration office immediately after notification by the Contracting Officer that duty-free entry will be accorded foreign supplies or, for duty-free supplies identified in the Schedule, upon award by the Contractor to the overseas supplier. The notice shall identify the—

(1) Foreign supplies;

(2) Country of origin;

(3) Contract number; and

(4) Scheduled delivery date(s).

(j) The Contractor shall include the substance of this clause in any subcontract if—

(1) Supplies identified in the Schedule to be accorded duty-free entry will be imported into the customs territory of the United States; or

(2) Other foreign supplies in excess of \$15,000 may be imported into the customs territory of the United States.

(End of clause)

#### 52.225-9 Buy American—Construction Materials.

As prescribed in [25.1102\(a\)](#), insert the following clause:

BUY AMERICAN—CONSTRUCTION MATERIALS  
(MAY 2014)

(a) *Definitions.* As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));

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

(iii) 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

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into a construction material.

“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.

“Cost of components” means—

(3) 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

(4) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) 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.

“Domestic construction material” means—

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if—

(i) 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

(ii) The construction material is a COTS item.

“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.

(b) *Domestic preference.* (1) 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 (b)(2) and (b)(3) of this clause.

(2) 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:

[Contracting Officer to list applicable excepted materials or indicate “none”]

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) 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.

(c) *Request for determination of inapplicability of the Buy American statute.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) 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 (b)(3) 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 (d) 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.

(2) 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 (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) *Data.* To permit evaluation of requests under paragraph (c) 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			
<u>Construction Material Description</u>	<u>Unit of Measure</u>	<u>Quantity</u>	<u>Price</u> <u>(Dollars)*</u>
<i>Item 1:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
	_____	_____	_____

Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

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

[Include other applicable supporting information.]

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

### 52.225-10 Notice of Buy American Requirement— Construction Materials.

As prescribed in [25.1102\(b\)\(1\)](#), insert the following provision:

#### NOTICE OF BUY AMERICAN REQUIREMENT— CONSTRUCTION MATERIALS (MAY 2014)

(a) *Definitions.* “Commercially available off-the-shelf (COTS) item,” “construction material,” “domestic construction material,” and “foreign construction material,” as used in this provision, are defined in the clause of this solicitation entitled “Buy American—Construction Materials” (Federal Acquisition Regulation (FAR) clause [52.225-9](#)).

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American statute should submit the request to the Contracting Officer in time to allow a determination before submission of offers. The offeror shall include the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR [52.225-9](#) in the request. If an offeror has not requested a determination regarding the inapplicability of the Buy American statute before submitting its offer, or has not received a response to a previous request, the offeror shall include the information and supporting data in the offer.

(c) *Evaluation of offers.* (1) The Government will evaluate an offer requesting exception to the requirements of the Buy American statute, based on claimed unreasonable cost of domestic construction material, by adding to the offered price the appropriate percentage of the cost of such foreign construction material, as specified in paragraph (b)(3)(i) of the clause at FAR [52.225-9](#).

(2) If evaluation results in a tie between an offeror that requested the substitution of foreign construction material based on unreasonable cost and an offeror that did not request an exception, the Contracting Officer will award to the offeror that did not request an exception based on unreasonable cost.

(d) *Alternate offers.* (1) When an offer includes foreign construction material not listed by the Government in this solicitation in paragraph (b)(2) of the clause at FAR [52.225-9](#), the offeror also may submit an alternate offer based on use of equivalent domestic construction material.

(2) If an alternate offer is submitted, the offeror shall submit a separate [Standard Form 1442](#) for the alternate offer, and a separate price comparison table prepared in accordance with paragraphs (c) and (d) of the clause at FAR [52.225-9](#) for the offer that is based on the use of any foreign construction

material for which the Government has not yet determined an exception applies.

(3) If the Government determines that a particular exception requested in accordance with paragraph (c) of the clause at FAR [52.225-9](#) does not apply, the Government will evaluate only those offers based on use of the equivalent domestic construction material, and the offeror shall be required to furnish such domestic construction material. An offer based on use of the foreign construction material for which an exception was requested—

(i) Will be rejected as nonresponsive if this acquisition is conducted by sealed bidding; or

(ii) May be accepted if revised during negotiations.

(End of provision)

*Alternate I (May 2014).* As prescribed in [25.1102\(b\)\(2\)](#), substitute the following paragraph (b) for paragraph (b) of the basic provision:

(b) *Requests for determinations of inapplicability.* An offeror requesting a determination regarding the inapplicability of the Buy American statute shall submit the request with its offer, including the information and applicable supporting data required by paragraphs (c) and (d) of the clause at FAR [52.225-9](#).

### 52.225-11 Buy American—Construction Materials under Trade Agreements.

As prescribed in [25.1102\(c\)](#), insert the following clause:

#### BUY AMERICAN—CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (OCT 2016)

(a) *Definitions.* As used in this clause—

“Caribbean Basin country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](#));

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

(iii) 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

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products.

“Component” means an article, material, or supply incorporated directly into a construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or 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.

“Cost of components” means—

(1) 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

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) 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.

“Designated country” means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

“Designated country construction material” means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

“Domestic construction material” means—

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if—

(i) 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

(ii) The construction material is a COTS item.

“Foreign construction material” means a construction material other than a domestic construction material.

“Free Trade Agreement country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

“Least developed country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

“United States” means the 50 States, the District of Columbia, and outlying areas.

“WTO GPA country construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.* (1) This clause implements [41 U.S.C. chapter 83](#), 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\(a\)\(2\)](#)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:

[Contracting Officer to list applicable excepted materials or indicate “none”]

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) 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 restrictions 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 Act 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.

(c) *Request for determination of inapplicability of the Buy American statute.* (1)(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) 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 (b)(3) 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 (d) 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.

(2) 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 (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) *Data.* To permit evaluation of requests under paragraph (c) 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)*
--------------------------------------	--------------------	----------	---------------------

Item 1:

Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____
<i>Item 2:</i>			
Foreign construction material	_____	_____	_____
Domestic construction material	_____	_____	_____

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

[Include other applicable supporting information.]

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

(End of clause)

*Alternate I (MAY 2014).* As prescribed in [25.1102\(c\)\(3\)](#), add the following definition of “Bahrainian, Mexican, or Omani construction material” to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

“Bahrainian, Mexican, or Omani construction material” means a construction material that—

(1) Is wholly the growth, product, or manufacture of Bahrain, Mexico, or Oman; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain, Mexico, or Oman into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials.* (1) This clause implements [41 U.S.C. chapter 83](#), 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\(a\)\(2\)](#)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, NAFTA, and the Oman FTA apply to this acquisition. Therefore, the Buy American statute restrictions are waived for designated country construction materials other than Bahrainian, Mexican, or Omani construction materials.

(2) The Contractor shall use only domestic or designated country construction material other than Bahrainian, Mexican,

This page intentionally left blank.



PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.211-3</a> Availability of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Item Descriptions.	<a href="#">11.204(c)</a>	P	No	L	A	A	A	A	A	A	A			A	A			A	A		A		
<a href="#">52.211-4</a> Availability for Examination of Specifications Not Listed in the GSA Index of Federal Specifications, Standards and Commercial Index Descriptions.	<a href="#">11.204(d)</a>	P	No	L	A	A	A	A	A	A	A			A	A			A	A	A	A		
<a href="#">52.211-5</a> Material Requirements.	<a href="#">11.304</a>	C	Yes	I	R	R																A	
<a href="#">52.211-6</a> Brand Name or Equal.	<a href="#">11.107(a)</a>	P	Yes	L	A	A							A						A		A		
<a href="#">52.211-7</a> Alternatives to Government-Unique Standards.	<a href="#">11.107(b)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.211-8</a> Time of Delivery.	<a href="#">11.404(a)(2)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate I	<a href="#">11.404(a)(2)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate II	<a href="#">11.404(a)(2)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate III	<a href="#">11.404(a)(2)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
<a href="#">52.211-9</a> Desired and Required Time of Delivery.	<a href="#">11.404(a)(3)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate I	<a href="#">11.404(a)(3)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate II	<a href="#">11.404(a)(3)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
Alternate III	<a href="#">11.404(a)(3)</a>	C	No	F	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O	O
<a href="#">52.211-10</a> Commencement, Prosecution, and Completion of Work.	<a href="#">11.404(b)</a>	C	Yes								R												
Alternate I	<a href="#">11.404(b)</a>	C	Yes								R												
<a href="#">52.211-11</a> Liquidated Damages—Supplies, Services, or Research and Development.	<a href="#">11.503(a)</a>	C	Yes	I	O		O		O					O							O	O	
<a href="#">52.211-12</a> Liquidated Damages—Construction.	<a href="#">11.503(b)</a>	C	Yes								O	O									O		
<a href="#">52.211-13</a> Time Extensions.	<a href="#">11.503(c)</a>	C	Yes								A	A									A		
<a href="#">52.211-14</a> Notice of Priority Rating for National Defense, Emergency Preparedness, and Energy Program Use.	<a href="#">11.604(a)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.211-15</a> Defense Priority and Allocation Requirements.	<a href="#">11.604(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.211-16</a> Variation in Quantity.	<a href="#">11.703(a)</a>	C	Yes	F	A				A					A						A		A	
<a href="#">52.211-17</a> Delivery of Excess Quantities.	<a href="#">11.703(b)</a>	C	Yes	F	O									O						O		O	

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.211-18</a> Variation in Estimated Quantity.	<a href="#">11.703(c)</a>	C	Yes								A										A		
<a href="#">52.212-1</a> Instructions to Offerors—Commercial Items.	<a href="#">12.301(b)(1)</a>	P	Yes	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
<a href="#">52.212-2</a> Evaluation—Commercial Items.	<a href="#">12.301(c)(1)</a>	P	No	NA	O		O		O		O			O	O	O	O	O	O	O	O	O	O
<a href="#">52.212-3</a> Offeror Representations and Certifications—Commercial Items.	<a href="#">12.301(b)(2)</a>	P	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
Alternate I	<a href="#">12.301(b)(2)</a>	P	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	A
Alternate II	<a href="#">12.301(b)(2)</a>	P	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	A
<a href="#">52.212-4</a> Contract Terms and Conditions—Commercial Items.	<a href="#">12.301(b)(3)</a>	C	Yes	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
Alternate I	<a href="#">12.301(b)(3)</a>	C	Yes	NA									A										A
<a href="#">52.212-5</a> Contract Terms and Conditions Required To Implement Statutes or Executive Orders— Commercial Items	<a href="#">12.301(b)(4)</a>	C	Yes	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">12.301(b)(4)(i)</a>	C	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
Alternate II	<a href="#">12.301(b)(4)(ii)</a>	C	No	NA	A		A		A		A			A	A	A	A	A	A	A	A	A	R
<a href="#">52.213-1</a> Fast Payment Procedure.	<a href="#">13.404</a>	C	Yes		A									A					A		A		
<a href="#">52.213-2</a> Invoices.	<a href="#">13.302-5(b)</a>	C	Yes																		A		
<a href="#">52.213-3</a> Notice to Supplier.	<a href="#">13.302-5(c)</a>	C	Yes																		A		
<a href="#">52.213-4</a> Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).	<a href="#">13.302-5(d)</a>	C	Yes	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.214-3</a> Amendments to Invitations for Bids.	<a href="#">14.201-6(b)(1)</a>	P	Yes	L	A				A		A			A	A	A			A	A		A	
<a href="#">52.214-4</a> False Statements in Bids.	<a href="#">14.201-6(b)(2)</a>	P	Yes	L	A				A		A			A	A	A			A	A		A	
<a href="#">52.214-5</a> Submission of Bids.	<a href="#">14.201-6(c)(1)</a>	P	Yes	L	A				A		A			A	A	A			A	A		A	
<a href="#">52.214-6</a> Explanation to Prospective Bidders.	<a href="#">14.201-6(c)(2)</a>	P	Yes	L	A				A		A			A	A	A			A	A		A	
<a href="#">52.214-7</a> Late Submissions, Modifications, and Withdrawals of Bids.	<a href="#">14.201-6(c)(3)</a>	P	Yes	L	A				A		A			A	A	A			A	A		A	
<a href="#">52.214-10</a> Contract Award—Sealed Bidding.	<a href="#">14.201-6(e)</a>	P	Yes	L	A				A					A	A	A			A	A		A	
<a href="#">52.214-12</a> Preparation of Bids.	<a href="#">14.201-6(f)</a>	P	Yes	L	A				A					A	A	A			A	A		A	
<a href="#">52.214-14</a> Place of Performance—Sealed Bidding.	<a href="#">14.201-6(h)</a>	P	No	K	A				A					A	A	A			A	A		A	
<a href="#">52.214-15</a> Period for Acceptance of Bids.	<a href="#">14.201-6(i)</a>	P	Yes	L	A				A					A	A	A			A	A		A	

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.222-40</a> Notification of Employee Rights Under the National Labor Relations Act.	<a href="#">22.1605</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A
<a href="#">52.222-41</a> Service Contract Labor Standards.	<a href="#">22.1006(a)</a>	C	Yes	I					A	A			A		A	A	A			A	A		
<a href="#">52.222-42</a> Statement of Equivalent Rates for Federal Hires.	<a href="#">22.1006(b)</a>	C	No	I					A	A			A		A	A	A			A	A		
<a href="#">52.222-43</a> Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).	<a href="#">22.1006(c)(1)</a>	C	Yes	I					A				A		A	A	A			A	A		
<a href="#">52.222-44</a> Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment.	<a href="#">22.1006(c)(2)</a>	C	Yes	I					A				A		A	A	A			A	A		
<a href="#">52.222-46</a> Evaluation of Compensation for Professional Employees.	<a href="#">22.1103</a>	P	Yes	L					A	A													
<a href="#">52.222-48</a> Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Certification.	<a href="#">22.1006(e)(1)</a>	C	Yes	I					A	A			A								A		
<a href="#">52.222-49</a> Service Contract Labor Standards—Place of Performance Unknown.	<a href="#">22.1006(f)</a>	C	Yes	I					A	A			A		A	A				A	A		
<a href="#">52.222-50</a> Combating Trafficking in Persons.	<a href="#">22.1705(a)(1)</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Alternate I	<a href="#">22.1705(a)(2)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.222-51</a> Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.	<a href="#">22.1006(e)(2)</a>	C	Yes	I					A	A			A								A		
<a href="#">52.222-52</a> Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.	<a href="#">22.1006(e)(3)</a>	P	Yes	I					A	A			A								A		
<a href="#">52.222-53</a> Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.	<a href="#">22.1006(e)(4)</a>	C	Yes	I					A	A			A								A		
<a href="#">52.222-54</a> Employment Eligibility Verification.	<a href="#">22.1803</a>	C	Yes	I	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A		A	

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																			
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
52.222-55 Minimum Wages Under Executive Order 13658.	<a href="#">22.1906</a>	C	Yes	I					A	A	A	A	A		A	A				A	A		A	
52.222-56 Certification Regarding Trafficking in Persons Compliance Plan.	<a href="#">22.1705(b)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	
52.222-57 Representation Regarding Compliance with Labor Laws (Executive Order 13673)	<a href="#">22.2007(a)</a>	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-58 Subcontractor Responsibility Matters Regarding Compliance with Labor Laws (Executive Order 13673)	<a href="#">22.2007(b)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-59 Compliance with Labor Laws (Executive Order 13673)	<a href="#">22.2007(c)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-60 Paycheck Transparency (Executive Order 13673)	<a href="#">22.2007(d)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.222-61 Arbitration of Contractor Employee Claims (Executive Order 13673)	<a href="#">22.2007(e)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-1 Biobased Product Certification.	<a href="#">23.406(a)</a>	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A
52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts.	<a href="#">23.406(b)</a>	C	Yes	I					A	A	A	A	A		A	A		A	A	A	A		A	A
52.223-3 Hazardous Material Identification and Material Safety Data.	<a href="#">23.303</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	<a href="#">23.303(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.223-4 Recovered Material Certification.	<a href="#">23.406(c)</a>	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A
52.223-5 Pollution Prevention and Right-to-Know Information.	<a href="#">23.1005</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I	<a href="#">23.1005(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate II	<a href="#">23.1005(c)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	a	A	A	A	A	A	A	A	A	
52.223-6 Drug-Free Workplace.	<a href="#">23.505</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.223-7 Notice of Radioactive Materials.	<a href="#">23.602</a>	C	No	I	A	A	A	A	A	A	A	A	A			A		A	A			A		
52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products.	<a href="#">23.406(d)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	
Alternate I	<a href="#">23.406(d)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	
52.223-10 Waste Reduction Program.	<a href="#">23.705(a)</a>	C	Yes	I					A	A					A			A						
52.223-11 Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons.	<a href="#">23.804(a)(1)</a> ✓	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																		
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.223-12</a> Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners.	<a href="#">23.804(a)(2)</a> ✓	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.223-13</a> Acquisition of EPEAT®-Registered Imaging Equipment.	<a href="#">23.705(c)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
Alternate I	<a href="#">23.705(c)(2)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
<a href="#">52.223-14</a> Acquisition of EPEAT®-Registered Televisions.	<a href="#">23.705(d)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
Alternate I	<a href="#">23.705(d)(2)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
<a href="#">52.223-15</a> Energy Efficiency in Energy-Consuming Products.	<a href="#">23.206</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A
<a href="#">52.223-16</a> Acquisition of EPEAT®-Registered Personal Computer Products.	<a href="#">23.705(b)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
Alternate I	<a href="#">23.705(b)(2)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
<a href="#">52.223-17</a> Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.	<a href="#">23.406(e)</a>	C	Yes	I					A	A	A	A	A	A	A	A	A	A	A	A	A		
<a href="#">52.223-18</a> Encouraging Contractor Policies to Ban Text Messaging While Driving	<a href="#">23.1105</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.223-19</a> Compliance with Environmental Management Systems.	<a href="#">23.903</a>	C	Yes	I			A	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A
<a href="#">52.223-20</a> Aerosols.	<a href="#">23.804(a)(3)</a> ✓	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.223-21</a> Foams.	<a href="#">23.804(a)(4)</a> ✓	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.223-22</a> Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation	<a href="#">23.804(b)</a>	P	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.224-1</a> Privacy Act Notification.	<a href="#">24.104(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
<a href="#">52.224-2</a> Privacy Act.	<a href="#">24.104(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
<a href="#">52.225-1</a> Buy American—Supplies.	<a href="#">25.1101(a)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A				A		A		A
<a href="#">52.225-2</a> Buy American Certificate.	<a href="#">25.1101(a)(2)</a>	P	No	K	A	A	A	A	A	A			A	A	A				A		A		
<a href="#">52.225-3</a> Buy American—Free Trade Agreements-Israeli Trade Act.	<a href="#">25.1101(b)(1)(i)</a>	C	Yes	I	A	A							A	A					A		A		A
Alternate I	<a href="#">25.1101(b)(1)(ii)</a>	C	Yes	I	A	A							A	A					A		A		A
Alternate II	<a href="#">25.1101(b)(1)(iii)</a>	C	Yes	I	A	A							A	A					A		A		A
Alternate III	<a href="#">25.1101(b)(1)(iv)</a>	C	Yes	I	A	A							A	A					A		A		A

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.225-4</a> Buy American—Free Trade Agreements-Israeli Trade Act Certificate.	<a href="#">25.1101(b)(2)(i)</a>	P	No	K	A	A							A	A					A		A		
Alternate I	<a href="#">25.1101(b)(2)(ii)</a>	P	No	K	A	A							A	A					A		A		
Alternate II	<a href="#">25.1101(b)(2)(iii)</a>	P	No	K	A	A							A	A					A		A		
Alternate III	<a href="#">25.1101(b)(2)(iv)</a>	P	No	K	A	A							A	A					A		A		
<a href="#">52.225-5</a> Trade Agreements.	<a href="#">25.1101(c)(1)</a>	C	Yes	I	A	A													A		A		A
<a href="#">52.225-6</a> Trade Agreements Certificate.	<a href="#">25.1101(c)(2)</a>	P	No	K	A	A													A		A		
<a href="#">52.225-7</a> Waiver of Buy American Statute for Civil Aircraft and Related Articles.	<a href="#">25.1101(d)</a>	P	Yes	L	A	A	A	A											A		A		A
<a href="#">52.225-8</a> Duty-Free Entry.	<a href="#">25.1101(e)</a>	C	Yes	I	A	A	A	A					A	A	A				A		A		A
<a href="#">52.225-9</a> Buy American—Construction Materials.	<a href="#">25.1102(a)</a>	C	No									A	A										
<a href="#">52.225-10</a> Notice of Buy American Requirement—Construction Materials.	<a href="#">25.1102(b)(1)</a>	P	No									A	A										
Alternate I	<a href="#">25.1102(b)(2)</a>	P	No									A	A										
<a href="#">52.225-11</a> Buy American—Construction Materials under Trade Agreements.	<a href="#">25.1102(c)</a>	C	No									A	A										
Alternate I	<a href="#">25.1102(c)(3)</a>	C	No									A	A										
<a href="#">52.225-12</a> Notice of Buy American Requirement—Construction Materials Under Trade Agreements.	<a href="#">25.1102(d)(1)</a>	P	No									A	A										
Alternate I	<a href="#">25.1102(d)(2)</a>	P	No									A	A										
Alternate II	<a href="#">25.1102(d)(3)</a>	P	No									A	A										
<a href="#">52.225-13</a> Restrictions on Certain Foreign Purchases.	<a href="#">25.1103(a)</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.225-14</a> Inconsistency Between English Version and Translation of Contract.	<a href="#">25.1103(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.225-17</a> Evaluation of Foreign Currency Offers.	<a href="#">25.1103(c)</a>	P	Yes	M	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.225-18</a> Place of Manufacture.	<a href="#">25.1101(f)</a>	P	No	K	R	R							A						A		A		A
<a href="#">52.225-19</a> Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.	<a href="#">25.301-4</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.225-20</a> Prohibition on Conducting Restricted Business Operations in Sudan—Certification.	<a href="#">25.1103(d)</a>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																			
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
<a href="#">52.225-21</a> Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.	<a href="#">25.1102(e)(1)</a>	C	No									A	A											
<a href="#">52.225-22</a> Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials.	<a href="#">25.1102(e)(1)</a>	P	No									A	A											
Alternate I	<a href="#">25.1102(e)(1)</a>	P	No									A	A											
<a href="#">52.225-23</a> Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials under Trade Agreements.	<a href="#">25.1102(e)(1)</a>	C	No									A	A											
Alternate I	<a href="#">25.1102(e)(1)</a>	C	No									A	A											
<a href="#">52.225-24</a> Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Statute—Construction Materials Under Trade Agreements.	<a href="#">25.1102(e)(1)</a>	P	No									A	A											
Alternate I	<a href="#">25.1102(e)(1)</a>	P	No									A	A											
Alternate II	<a href="#">25.1102(e)(1)</a>	P	No									A	A											
<a href="#">52.225-25</a> Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications	<a href="#">25.1103</a>	P	Yes	K	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.225-26</a> Contractors Performing Private Security Functions Outside the United States.	<a href="#">25.302-6</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	O	A	A	A	A	A	A	A	A	A	A
<a href="#">52.226-1</a> Utilization of Indian Organizations and Indian-Owned Economic Enterprises.	<a href="#">26.104</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	
<a href="#">52.226-2</a> Historically Black College or University and Minority Institution Representation.	<a href="#">26.304</a>	P	No	K	A	A	A	A	A	A				A		A				A		A		
<a href="#">52.226-3</a> Disaster or Emergency Area Representation.	<a href="#">26.206(a)</a>	P	No	K	A	A			A	A	A	A	A	A	A	A	A	A	A	A			A	A
<a href="#">52.226-4</a> Notice of Disaster or Emergency Area Set-Aside.	<a href="#">26.206(b)</a>	C	Yes	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A			A	A

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.226-5</a> Restrictions on Subcontracting Outside Disaster or Emergency Area.	<a href="#">26.206(c)</a>	C	Yes	I	A	A			A	A	A	A	A	A	A	A	A	A	A	A		A	A
<a href="#">52.226-6</a> Promoting Excess Food Donation to Nonprofit Organizations.	<a href="#">26.404</a>	C	Yes	I	A	A			A	A									A		A		A
<a href="#">52.227-1</a> Authorization and Consent.	<a href="#">27.201-2(a)(1)</a>	C	Yes	I	A	A			A		A	A			A	A	A	A	A		O		
Alternate I	<a href="#">27.201-2(a)(2)</a>	C	Yes	I			A	A			A	A			A		A	A					
Alternate II	<a href="#">27.201-2(a)(3)</a>	C	Yes	I			A				A												
<a href="#">52.227-2</a> Notice and Assistance Regarding Patent and Copyright Infringement.	<a href="#">27.201-2(b)</a>	C	Yes	I	A	A																	
<a href="#">52.227-3</a> Patent Indemnity.	<a href="#">27.201-2(c)(1)</a>	C	Yes	I	A	A			A	A									A				
Alternate I	<a href="#">27.201-2(c)(2)</a>	C	Yes	I	A	A			A	A									A				
Alternate II	<a href="#">27.201-2(c)(2)</a>	C	Yes	I	A	A			A	A					A				A				
Alternate III	<a href="#">27.201-2(c)(3)</a>	C	Yes	I											A						A		
<a href="#">52.227-4</a> Patent Indemnity—Construction Contracts.	<a href="#">27.201-2(d)(1)</a>	C	Yes								A	A				A							
Alternate I	<a href="#">27.201-2(d)(2)</a>	C	Yes								O	O				O							
<a href="#">52.227-5</a> Waiver of Indemnity.	<a href="#">27.201-2(e)</a>	C	Yes	I	A	A	A	A	A	A	A	A				A		A	A				
<a href="#">52.227-6</a> Royalty Information.	<a href="#">27.202-5(a)(1)</a>	P	No	K	A	A	A	A	A	A	A	A				A		A	A				
Alternate I	<a href="#">27.202-5(a)(2)</a>	P	No	K											A			A					
<a href="#">52.227-7</a> Patents—Notice of Government Licensee.	<a href="#">27.202-5(b)</a>	P	No	K	A	A	A	A	A	A	A	A			A	A		A	A				
<a href="#">52.227-9</a> Refund of Royalties.	<a href="#">27.202-5(c)</a>	C	Yes	I	A		A		A		A				A	A		A	A				
<a href="#">52.227-10</a> Filing of Patent Applications—Classified Subject Matter.	<a href="#">27.203-2</a>	C	Yes	I	A	A	A	A	A	A	A	A			A	A		A	A				
<a href="#">52.227-11</a> Patent Rights—Ownership by the Contractor.	<a href="#">27.303(b)(1)</a>	C	Yes	I			A	A			A	A							A				
Alternate I	<a href="#">27.303(b)(3)</a>	C	Yes	I			A	A			A	A							A				
Alternate II	<a href="#">27.303(b)(4)</a>	C	Yes	I			A	A			A	A							A				
Alternate III	<a href="#">27.303(b)(5)</a>	C	Yes	I			A	A			A	A											
Alternate IV	<a href="#">27.303(b)(6)</a>	C	Yes	I			A	A			A	A											
Alternate V	<a href="#">27.303(b)(7)</a>	C	Yes	I			A	A			A	A											
<a href="#">52.227-13</a> Patent Rights—Ownership by the Government.	<a href="#">27.303(e)</a>	C	Yes	I			A	A			A	A							A				
Alternate I	<a href="#">27.303(e)(4)</a>	C	Yes	I			A	A			A	A							A				
Alternate II	<a href="#">27.303(e)(5)</a>	C	Yes	I			A	A			A	A							A				



PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC
<a href="#">52.227-14</a> Rights in Data—General.	<a href="#">27.409(b)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A	
Alternate I	<a href="#">27.409(b)(2)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A	
Alternate II	<a href="#">27.409(b)(3)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A	
Alternate III	<a href="#">27.409(b)(4)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A	
Alternate IV	<a href="#">27.409(b)(5)</a>	C	Yes	I	O	O	A	A	O	O			O	O	O	O		O	O	O	O	
Alternate V	<a href="#">27.409(b)(6)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A		A	A	A	A	
<a href="#">52.227-15</a> Representation of Limited Rights Data and Restricted Computer Software.	<a href="#">27.409(c)</a>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.227-16</a> Additional Data Requirements.	<a href="#">27.409(d)</a>	C	Yes	I			A	A													A	
<a href="#">52.227-17</a> Rights in Data—Special Works.	<a href="#">27.409(e)</a>	C	Yes	I	A	A	A	A	A	A	O	O	A		A		O				A	
<a href="#">52.227-18</a> Rights in Data—Existing Works.	<a href="#">27.409(f)</a>	C	Yes	I	A	A	A	A	A	A			A		A		A		A		A	
<a href="#">52.227-19</a> Commercial Computer Software License.	<a href="#">27.409(g)</a>	C	Yes	I	A				A						A						A	
<a href="#">52.227-20</a> Rights in Data—SBIR Program.	<a href="#">27.409(h)</a>	C	Yes	I			A	A														
<a href="#">52.227-21</a> Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.	<a href="#">27.409(j)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.227-22</a> Major System—Minimum Rights.	<a href="#">27.409(k)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.227-23</a> Rights to Proposal Data (Technical).	<a href="#">27.409(l)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.228-1</a> Bid Guarantee.	<a href="#">28.101-2</a>	P	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.228-2</a> Additional Bond Security.	<a href="#">28.106-4</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.228-3</a> Workers' Compensation Insurance (Defense Base Act).	<a href="#">28.309(a)</a>	C	Yes	I					A	A	A	A	A				A					
<a href="#">52.228-4</a> Workers' Compensation and War-Hazard Insurance Overseas.	<a href="#">28.309(b)</a>	C	Yes	I					A	A	A	A	A				A					
<a href="#">52.228-5</a> Insurance—Work on a Government Installation.	<a href="#">28.310</a>	C	Yes	I	A		A		A		A	A		A	A	A	A		A			
<a href="#">52.228-7</a> Insurance—Liability to Third Persons.	<a href="#">28.311-1</a>	C	Yes	I			A		A						A		A	A				
<a href="#">52.228-8</a> Liability and Insurance—Leased Motor Vehicles.	<a href="#">28.312</a>	C	Yes	I										R							A	
<a href="#">52.228-9</a> Cargo Insurance.	<a href="#">28.313(a)</a>	C	Yes	I																	A	A
<a href="#">52.228-10</a> Vehicular and General Public Liability Insurance.	<a href="#">28.313(b)</a>	C	Yes	I																	A	

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																		
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.228-11</a> Pledges of Assets.	<a href="#">28.203-6</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.228-12</a> Prospective Subcontractor Requests for Bonds.	<a href="#">28.106-4(b)</a>	C	Yes	I								A	A	A			A						
<a href="#">52.228-13</a> Alternative Payment Protections.	<a href="#">28.102-3(b)</a>	C	Yes	I								A	A	A			A						
<a href="#">52.228-14</a> Irrevocable Letter of Credit.	<a href="#">28.204-4</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.228-15</a> Performance and Payment Bonds—Construction.	<a href="#">28.102-3(a)</a>	C	Yes	I								A	A				A						
<a href="#">52.228-16</a> Performance and Payment Bonds—Other Than Construction.	<a href="#">28.103-4</a>	C	No	I	A	A	A	A	A	A			A	A	A		A	A	A	A	A		A
Alternate I	<a href="#">28.103-4</a>	C	No	I	A	A	A	A	A	A			A	A	A		A	A	A	A			A
<a href="#">52.229-1</a> State and Local Taxes.	<a href="#">29.401-1</a>	C	Yes	I																	A		
<a href="#">52.229-2</a> North Carolina State and Local Sales and Use Tax.	<a href="#">29.401-2</a>	C	Yes	I								A	A										
Alternate I	<a href="#">29.401-2</a>	C	Yes	I					A	A													
<a href="#">52.229-3</a> Federal, State, and Local Taxes.	<a href="#">29.401-3</a>	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A			
<a href="#">52.229-4</a> Federal, State, and Local Taxes (State and Local Adjustments).	<a href="#">29.401-3</a>	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A			
<a href="#">52.229-6</a> Taxes—Foreign Fixed-Price Contracts.	<a href="#">29.402-1(a)</a>	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A			
<a href="#">52.229-7</a> Taxes—Fixed-Price Contracts with Foreign Governments.	<a href="#">29.402-1(b)</a>	C	Yes	I	A		A		A		A		A	A	A	A	A	A	A	A	A		
<a href="#">52.229-8</a> Taxes—Foreign Cost-Reimbursement Contracts.	<a href="#">29.402-2(a)</a>	C	Yes	I		A		A		A		A		A	A	A	A	A	A	A			
<a href="#">52.229-9</a> Taxes—Cost-Reimbursement Contracts with Foreign Governments.	<a href="#">29.402-2(b)</a>	C	Yes	I		A		A		A		A		A	A	A	A	A	A	A			
<a href="#">52.229-10</a> State of New Mexico Gross Receipts and Compensating Tax.	<a href="#">29.401-4(b)</a>	C	Yes	I		A		A		A		A	A	A	A	A	A	A	A	A			
<a href="#">52.230-1</a> Cost Accounting Standards Notices and Certification.	<a href="#">30.201-3</a>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
Alternate I	<a href="#">30.201-3(b)</a>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
<a href="#">52.230-2</a> Cost Accounting Standards.	<a href="#">30.201-4(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
<a href="#">52.230-3</a> Disclosure and Consistency in Cost Accounting Practices.	<a href="#">30.201-4(b)(1)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
<a href="#">52.230-4</a> Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns.	<a href="#">30.201-4(c)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A
<a href="#">52.230-5</a> Cost Accounting Standards—Educational Institution.	<a href="#">30.201-4(e)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.230-6</a> Administration of Cost Accounting Standards.	<a href="#">30.201-4(d)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
<a href="#">52.230-7</a> Proposal Disclosure—Cost Accounting Practice Changes.	<a href="#">30.201-3(c)</a>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
<a href="#">52.232-1</a> Payments.	<a href="#">32.111(a)(1)</a>	C	Yes	I	R				R					A							A	A	
<a href="#">52.232-2</a> Payments under Fixed-Price Research and Development Contracts.	<a href="#">32.111(a)(2)</a>	C	Yes	I			R																
<a href="#">52.232-3</a> Payments under Personal Service Contracts.	<a href="#">32.111(a)(3)</a>	C	Yes	I				A	A														
<a href="#">52.232-4</a> Payments under Transportation Contracts and Transportation-Related Services Contracts.	<a href="#">32.111(a)(4)</a>	C	Yes	I																R	A		
<a href="#">52.232-5</a> Payments under Fixed-Price Construction Contracts.	<a href="#">32.111(a)(5)</a>	C	Yes							R													
<a href="#">52.232-6</a> Payment under Communication Service Contracts with Common Carriers.	<a href="#">32.111(a)(6)</a>	C	Yes	I										A							A		
<a href="#">52.232-7</a> Payments under Time-and-Materials and Labor-Hour Contracts.	<a href="#">32.111(a)(7)</a>	C	Yes	I								A											
<a href="#">52.232-8</a> Discounts for Prompt Payment.	<a href="#">32.111(b)(1)</a>	C	Yes	I	A			A				A	A								A		
<a href="#">52.232-9</a> Limitation on Withholding of Payments.	<a href="#">32.111(b)(2)</a>	C	Yes	I	A	A	A	A	A			A	A										
<a href="#">52.232-10</a> Payments under Fixed-Price Architect-Engineer Contracts.	<a href="#">32.111(c)(1)</a>	C	Yes													A							
<a href="#">52.232-11</a> Extras.	<a href="#">32.111(c)(2)</a>	C	Yes	I	A			A					A							A	A	A	
<a href="#">52.232-12</a> Advance Payments.	<a href="#">32.412(a)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">32.412(b)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	<a href="#">32.412(c)</a>	C	No	I		A		A		A			A	A		A	A	A	A	A		A	
Alternate III	<a href="#">32.412(d)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate IV	<a href="#">32.412(e)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate V	<a href="#">32.412(f)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-13</a> Notice of Progress Payments.	<a href="#">32.502-3(a)</a>	P	Yes	L	A		A		A				A	A		A	A	A	A				
<a href="#">52.232-14</a> Notice of Availability of Progress Payments Exclusively for Small Business Concerns.	<a href="#">32.502-3(b)(2)</a>	P	Yes	L	A		A		A		A		A	A			A	A	A				
<a href="#">52.232-15</a> Progress Payments Not Included.	<a href="#">32.502-3(c)</a>	P	Yes	M	A		A		A				A	A			A	A	A				

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC
<a href="#">52.232-16</a> Progress Payments.	<a href="#">32.502-4(a)</a>	C	Yes	I	A		A		A		A	A		A	A		A	A	A	A		
Alternate I	<a href="#">32.502-4(b)</a>	C	Yes	I	A		A		A		A	A		A	A		A	A	A	A		
Alternate II (See Note 1.)	<a href="#">32.502-4(c)</a>	C	Yes	I																		
Alternate III	<a href="#">32.502-4(d)</a>	C	Yes	I															A			
<a href="#">52.232-17</a> Interest.	<a href="#">32.611(a)</a> and <a href="#">(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A
<a href="#">52.232-18</a> Availability of Funds.	<a href="#">32.706-1(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-19</a> Availability of Funds for the Next Fiscal Year.	<a href="#">32.706-1(b)</a>	C	No	I					A	A									A			A
<a href="#">52.232-20</a> Limitation of Cost.	<a href="#">32.706-2(a)</a>	C	Yes	I		A		A		A				A	A	A		A	A	A		A
<a href="#">52.232-22</a> Limitation of Funds.	<a href="#">32.706-2(b)</a>	C	Yes	I		A		A		A				A	A	A		A	A	A		
<a href="#">52.232-23</a> Assignment of Claims.	<a href="#">32.806(a)(1)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">32.806(a)(2)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-24</a> Prohibition of Assignment of Claims.	<a href="#">32.806(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-25</a> Prompt Payment.	<a href="#">32.908(c)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">32.908(c)(3)</a>	C	Yes	I				A		A			A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-26</a> Prompt Payment for Fixed-Price Architect-Engineer Contracts.	<a href="#">32.908(a)</a>	C	Yes	I													A					
<a href="#">52.232-27</a> Prompt Payment for Construction Contracts.	<a href="#">32.908(b)</a>	C	Yes	I							R	R										
<a href="#">52.232-28</a> Invitation to Propose Performance-Based Payments.	<a href="#">32.1005(b)(1)</a>	P	No	L	A		A		A		A					A	A	A	A	A		A
Alternate I	<a href="#">32.1005(b)(2)</a>	P	No	L	A		A		A		A					A	A	A	A	A		A
<a href="#">52.232-29</a> Terms for Financing of Purchases of Commercial Items.	<a href="#">32.206(b)(2)</a>	C	No	I	A				A													A
<a href="#">52.232-30</a> Installment Payments for Commercial Items.	<a href="#">32.206(g)</a>	C	Yes	I	A				A													A
<a href="#">52.232-31</a> Invitation to Propose Financing Terms.	<a href="#">32.205(b)</a> <a href="#">32.206</a>	P	No	L	A				A													
<a href="#">52.232-32</a> Performance-Based Payments.	<a href="#">32.1005</a>	C	No	I	A				A													
<a href="#">52.232-33</a> Payment by Electronic Funds Transfer—System for Award Management.	<a href="#">32.1110(a)(1)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-34</a> Payment by Electronic Funds Transfer—Other than System for Award Management.	<a href="#">32.1110(a)(2)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																	
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC
<a href="#">52.232-35</a> Designation of Office for Government Receipt of Electronic Funds Transfer Information.	<a href="#">32.1110(c)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-36</a> Payment by Third Party.	<a href="#">32.1110(d)</a> and <a href="#">(e)(3)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-37</a> Multiple Payment Arrangements.	<a href="#">32.1110(e)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-38</a> Submission of Electronic Funds Transfer Information with Offer.	<a href="#">32.1110(g)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.232-39</a> Unenforceability of Unauthorized Obligations.	<a href="#">32.706-3</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.232-40</a> Providing Accelerated Payments to Small Business Subcontractors	<a href="#">32.009-2</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.233-1</a> Disputes.	<a href="#">33.215</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate 1	<a href="#">33.215</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.233-2</a> Service of Protest.	<a href="#">33.106(a)</a>	P	No	L	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.233-3</a> Protest after Award.	<a href="#">33.106(b)</a>	C	Yes	I	R		R		R		R		R	R	A	R	A	A	R	A	R	R
Alternate 1	<a href="#">33.106(b)</a>	C	Yes	I		R		R		R		R			A		A	A		A		A
<a href="#">52.233-4</a> Applicable Law for Breach of Contract Claim.	<a href="#">33.215(b)</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.234-1</a> Industrial Resources Developed Under Title III, Defense Production.	<a href="#">34.104</a>	C	N	I	A	A	A	A														
<a href="#">52.234-2</a> Notice of Earned Value Management System-Preaward Integrated Baseline Review.✓	<a href="#">34.203(a)</a>	P	N	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.234-3</a> Notice of Earned Value Management System - Postaward Integrated Baseline Review.✓	<a href="#">34.203(b)</a>	P	N	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.234-4</a> Earned Value Management System.	<a href="#">34.203(c)</a>	C	Y	H	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.236-1</a> Performance of Work by the Contractor.	<a href="#">36.501(b)</a>	C	Yes								A											
<a href="#">52.236-2</a> Differing Site Conditions.	<a href="#">36.502</a>	C	Yes								A					A					O	
<a href="#">52.236-3</a> Site Investigation and Conditions Affecting the Work.	<a href="#">36.503</a>	C	Yes								A					A					O	
<a href="#">52.236-4</a> Physical Data.	<a href="#">36.504</a>	C	No								A										A	
<a href="#">52.236-5</a> Material and Workmanship.	<a href="#">36.505</a>	C	Yes								R	R									A	
<a href="#">52.236-6</a> Superintendence by the Contractor.	<a href="#">36.506</a>	C	Yes								A					A					O	

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																				
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI		
<a href="#">52.236-7</a> Permits and Responsibilities.	<a href="#">36.507</a>	C	Yes									R	R					A					A		
<a href="#">52.236-8</a> Other Contracts.	<a href="#">36.508</a>	C	Yes									A						A					O		
<a href="#">52.236-9</a> Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.	<a href="#">36.509</a>	C	Yes									A						A					O		
<a href="#">52.236-10</a> Operations and Storage Areas.	<a href="#">36.510</a>	C	Yes									A						A					O		
<a href="#">52.236-11</a> Use and Possession Prior to Completion.	<a href="#">36.511</a>	C	Yes									A											O		
<a href="#">52.236-12</a> Cleaning Up.	<a href="#">36.512</a>	C	Yes									A						A					O		
<a href="#">52.236-13</a> Accident Prevention.	<a href="#">36.513</a>	C	Yes									A						A					O		
Alternate I	<a href="#">36.513</a>	C	Yes									A						A					O		
<a href="#">52.236-14</a> Availability and Use of Utility Services.	<a href="#">36.514</a>	C	Yes									A						A					A		
<a href="#">52.236-15</a> Schedules for Construction Contracts.	<a href="#">36.515</a>	C	Yes									O													
<a href="#">52.236-16</a> Quantity Surveys.	<a href="#">36.516</a>	C	Yes									O											O		
Alternate I	<a href="#">36.516</a>	C	Yes									O													
<a href="#">52.236-17</a> Layout of Work.	<a href="#">36.517</a>	C	Yes									A											A		
<a href="#">52.236-18</a> Work Oversight in Cost-Reimbursement Construction Contracts.	<a href="#">36.518</a>	C	Yes											R											
<a href="#">52.236-19</a> Organization and Direction of the Work.	<a href="#">36.519</a>	C	Yes											R											
<a href="#">52.236-21</a> Specifications and Drawings for Construction.	<a href="#">36.521</a>	C	Yes									A						A					O		
Alternate I	<a href="#">36.521</a>	C	Yes									A						A					O		
Alternate II	<a href="#">36.521</a>	C	Yes									A						A					O		
<a href="#">52.236-22</a> Design Within Funding Limitations.	<a href="#">36.609-1(c)</a>	C	Yes																A				O		
<a href="#">52.236-23</a> Responsibility of the Architect-Engineer Contractor.	<a href="#">36.609-2(b)</a>	C	Yes																A						
<a href="#">52.236-24</a> Work Oversight in Architect-Engineer Contracts.	<a href="#">36.609-3</a>	C	Yes																A						
<a href="#">52.236-25</a> Requirements for Registration of Designers.	<a href="#">36.609-4</a>	C	Yes																A						
<a href="#">52.236-26</a> Preconstruction Conference.	<a href="#">36.522</a>	C	Yes	I								A						A							
<a href="#">52.236-27</a> Site Visit (Construction).	<a href="#">36.523</a>	P	Yes	L								A						A							
Alternate I	<a href="#">36.523</a>	P	Yes	L								A						A							

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																						
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI				
<a href="#">52.236-28</a> Preparation of Proposals—Construction.	<a href="#">36.520</a>	P	Yes	K							R	R															
<a href="#">52.237-1</a> Site Visit.	<a href="#">37.110(a)</a>	P	Yes	L				A	A	A	A			A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.237-2</a> Protection of Government Buildings, Equipment, and Vegetation.	<a href="#">37.110(b)</a>	C	Yes	I				A	A	A	A			A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.237-3</a> Continuity of Services.	<a href="#">37.110(c)</a>	C	Yes	I						O	O														O		
<a href="#">52.237-4</a> Payment by Government to Contractor.	<a href="#">37.304(a)</a>	C	Yes	I													A								A		
Alternate I	<a href="#">37.304(a)</a>	C	Yes	I													A								A		
<a href="#">52.237-5</a> Payment by Contractor to Government.	<a href="#">37.304(b)</a>	C	Yes	I													A								A		
<a href="#">52.237-6</a> Incremental Payment by Contractor to Government.	<a href="#">37.304(c)</a>	C	Yes	I													A								A		
<a href="#">52.237-7</a> Indemnification and Medical Liability Insurance.	<a href="#">37.403</a>	C	Yes	I					A	A			A								A				O		
<a href="#">52.237-8</a> Restriction on Severance Payments to Foreign Nationals.	<a href="#">37.113-2(a)</a>	P	Yes	K			A		A		A		A	A	A	A	A	A		A	A						
<a href="#">52.237-9</a> Waiver of Limitation on Severance Payments to Foreign Nationals.	<a href="#">37.113-2(b)</a>	C	Yes	I			A		A		A		A	A	A	A	A	A		A	A						
<a href="#">52.237-10</a> Identification of Uncompensated Overtime.	<a href="#">37.115-3</a>	P	Yes	L					A	A			A														
<a href="#">52.237-11</a> Accepting and Dispensing of \$1 Coin.	<a href="#">37.116-2</a>	C	Yes	I	A	A			A	A			A						A	A				A		A	
<a href="#">52.239-1</a> Privacy or Security Safeguards. (See Note 4.)	<a href="#">39.106</a>	C	Yes	I	A	A	A	A	A	A			A						A	A				A		A	
<a href="#">52.241-1</a> Electric Service Territory Compliance Representation.	<a href="#">41.501(b)</a>	P	No	K																					A	A	
<a href="#">52.241-2</a> Order of Precedence—Utilities.	<a href="#">41.501(c)(1)</a>	C	Yes	I																					O	R	
<a href="#">52.241-3</a> Scope of Duration of Contract.	<a href="#">41.501(c)(2)</a>	C	No	I																					O	R	
<a href="#">52.241-4</a> Change in Class of Service.	<a href="#">41.501(c)(3)</a>	C	Yes	I																					O	R	
<a href="#">52.241-5</a> Contractor’s Facilities.	<a href="#">41.501(c)(4)</a>	C	Yes	I																					O	R	
<a href="#">52.241-6</a> Service Provisions.	<a href="#">41.501(c)(5)</a>	C	No	I																					O	R	
<a href="#">52.241-7</a> Change in Rates or Terms and Conditions of Service for Regulated Services.	<a href="#">41.501(d)(1)</a>	C	No	I																					O	A	

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																				
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI		
<a href="#">52.241-8</a> Change in Rates or Terms and Conditions of Service for Unregulated Services.	<a href="#">41.501(d)(2)</a>	C	No	I																		O	A		
<a href="#">52.241-9</a> Connection Charge.	<a href="#">41.501(d)(3)</a>	C	No	I																			O	A	
Alternate I	<a href="#">41.501(d)(3)</a>	C	No	I																			O	A	
<a href="#">52.241-10</a> Termination Liability.	<a href="#">41.501(d)(4)</a>	C	No	I																			O	A	
<a href="#">52.241-11</a> Multiple Service Locations.	<a href="#">41.501(d)(5)</a>	C	Yes	I																			O	A	
<a href="#">52.241-12</a> Nonrefundable, Nonrecurring Service Charge.	<a href="#">41.501(d)(6)</a>	C	No	I																			O	A	
<a href="#">52.241-13</a> Capital Credits.	<a href="#">41.501(d)(7)</a>	C	No	I																			O	A	
<a href="#">52.242-1</a> Notice of Intent to Disallow Costs.	<a href="#">42.802</a>	C	Yes	I	A	R	A	R	A	R	A	R	A	A	A	A	A	A	R	A	A			A	
<a href="#">52.242-2</a> Production Progress Reports.	<a href="#">42.1107(a)</a>	C	Yes	I	A	A	A	A	A	A			A	A				A		A					
<a href="#">52.242-3</a> Penalties for Unallowable Costs.	<a href="#">42.709-6</a>	C	Yes	I		A		A		A			A	A	A	A	A	A		A	A				
<a href="#">52.242-4</a> Certification of Final Indirect Costs.	<a href="#">42.703-2(f)</a>	C	Yes	I		A		A		A			A	A	A	A	A		A	A					
<a href="#">52.242-13</a> Bankruptcy.	<a href="#">42.903</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	O	R		
<a href="#">52.242-14</a> Suspension of Work.	<a href="#">42.1305(a)</a>	C	Yes									A							A				A		
<a href="#">52.242-15</a> Stop-Work Order.	<a href="#">42.1305(b)(1)</a>	C	Yes	F	O	O	O	O	O	O					O								O		
Alternate I	<a href="#">42.1305(b)(2)</a>	C	Yes	F		O		O		O					O										
<a href="#">52.242-17</a> Government Delay of Work.	<a href="#">42.1305(c)</a>	C	Yes	F	A				O						A								A		
<a href="#">52.243-1</a> Changes—Fixed Price.	<a href="#">43.205(a)(1)</a>	C	Yes	I	R										R					A			A		
Alternate I	<a href="#">43.205(a)(2)</a>	C	Yes	I						A													A	A	
Alternate II	<a href="#">43.205(a)(3)</a>	C	Yes	I						A													A		
Alternate III	<a href="#">43.205(a)(4)</a>	C	Yes	I						A									A						
Alternate IV	<a href="#">43.205(a)(5)</a>	C	Yes	I																		A	A		
Alternate V	<a href="#">43.205(a)(6)</a>	C	Yes	I			O																O		
<a href="#">52.243-2</a> Changes—Cost Reimbursement.	<a href="#">43.205(b)(1)</a>	C	Yes	I		R																			
Alternate I	<a href="#">43.205(b)(2)</a>	C	Yes	I							A														
Alternate II	<a href="#">43.205(b)(3)</a>	C	Yes	I							A														
Alternate III	<a href="#">43.205(b)(4)</a>	C	Yes	I									A												
Alternate V	<a href="#">43.205(b)(6)</a>	C	Yes	I			O																		
<a href="#">52.243-3</a> Changes—Time-and-Materials or Labor-Hours.	<a href="#">43.205(c)</a>	C	Yes	I										R											



PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																		
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.243-4</a> Changes.	<a href="#">43.205(d)</a>	C	Yes	I							A					R							
<a href="#">52.243-5</a> Changes and Changed Conditions.	<a href="#">43.205(e)</a>	C	Yes	I							A										A		
<a href="#">52.243-6</a> Change Order Accounting.	<a href="#">43.205(f)</a>	C	Yes	I	O	O	O	O						O									
<a href="#">52.243-7</a> Notification of Changes.	<a href="#">43.107</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	O
<a href="#">52.244-2</a> Subcontracts. (See Note 1.)	<a href="#">44.204(a)(1)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Alternate I (See Note 1.)	<a href="#">44.204(a)(2)</a>	C	Yes	I		A		A		A		A		A		A		A		A		A	
<a href="#">52.244-4</a> Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).	<a href="#">44.204(b)</a>	C	Yes	I													A						
<a href="#">52.244-5</a> Competition in Subcontracting.	<a href="#">44.204(c)</a>	C	Yes	I	A	A	A	A	A	A		A		A		A	A	A		A		A	
<a href="#">52.244-6</a> Subcontracts for Commercial Items.	<a href="#">44.403</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.245-1</a> Government Property.	<a href="#">45.107(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">45.107(a)(2)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	<a href="#">45.107(a)(3)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.245-2</a> Government Property Installation Operation Services.	<a href="#">45.107(b)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.245-9</a> Use and Charges.	<a href="#">45.107(c)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.246-1</a> Contractor Inspection Requirements.	<a href="#">46.301</a>	C	Yes																			A	
<a href="#">52.246-2</a> Inspection of Supplies—Fixed-Price.	<a href="#">46.302</a>	C	Yes	E	A		A		A					A					A			O	
Alternate I	<a href="#">46.302</a>	C	Yes	E	A		A		A					A									
Alternate II	<a href="#">46.302</a>	C	Yes	E	A				A					A									
<a href="#">52.246-3</a> Inspection of Supplies—Cost-Reimbursement.	<a href="#">46.303</a>	C	Yes	E		A		A		A													
<a href="#">52.246-4</a> Inspection of Services—Fixed-Price.	<a href="#">46.304</a>	C	Yes	E	A		A		A				A	A					A			O	
<a href="#">52.246-5</a> Inspection of Services—Cost-Reimbursement.	<a href="#">46.305</a>	C	Yes	E		A		A		A													
<a href="#">52.246-6</a> Inspection—Time-and-Material and Labor-Hour.	<a href="#">46.306</a>	C	Yes	E									R										
Alternate I	<a href="#">46.306</a>	C	Yes	E									A									O	
<a href="#">52.246-7</a> Inspection of Research and Development—Fixed Price.	<a href="#">46.307(a)</a>	C	Yes	E			A															O	
<a href="#">52.246-8</a> Inspection of Research and Development—Cost Reimbursement.	<a href="#">46.308</a>	C	Yes	E				A															
Alternate I	<a href="#">46.308</a>	C	Yes	E				A															

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.246-9</a> Inspection of Research and Development (Short Form).	<a href="#">46.309</a>	C	Yes	E			A	A													O		
<a href="#">52.246-11</a> Higher-Level Contract Quality Requirement.	<a href="#">46.311</a>	C	Yes	E	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
<a href="#">52.246-12</a> Inspection of Construction.	<a href="#">46.312</a>	C	Yes							A	A										O		
<a href="#">52.246-13</a> Inspection—Dismantling, Demolition, or Removal of Improvements.	<a href="#">46.313</a>	C	Yes													R					A		
<a href="#">52.246-14</a> Inspection of Transportation.	<a href="#">46.314</a>	C	Yes	E																	A	A	
<a href="#">52.246-15</a> Certificate of Conformance.	<a href="#">46.315</a>	C	Yes	E	A	A	A	A	A					A					A		A		
<a href="#">52.246-16</a> Responsibility for Supplies.	<a href="#">46.316</a>	C	Yes	E	A		A		A					A							O		
<a href="#">52.246-17</a> Warranty of Supplies of a Noncomplex Nature.	<a href="#">46.710(a)(1)</a>	C	Yes	I	O									O							O		
Alternate I	<a href="#">46.710(a)(2)</a>	C	Yes	I	O									O							O		
Alternate II	<a href="#">46.710(a)(3)</a>	C	Yes	I	O									O							O		
Alternate III	<a href="#">46.710(a)(4)</a>	C	Yes	I	O									O							O		
Alternate IV	<a href="#">46.710(a)(5)</a>	C	Yes	I	O									O							O		
Alternate V	<a href="#">46.710(a)(6)</a>	C	Yes	I	O									O							O		
<a href="#">52.246-18</a> Warranty of Supplies of a Complex Nature.	<a href="#">46.710(b)(1)</a>	C	Yes	I	O		O							O							O		
Alternate II	<a href="#">46.710(b)(2)</a>	C	Yes	I	O		O							O							O		
Alternate III	<a href="#">46.710(b)(3)</a>	C	Yes	I	O		O							O							O		
Alternate IV	<a href="#">46.710(b)(4)</a>	C	Yes	I	O		O							O							O		
<a href="#">52.246-19</a> Warranty of Systems and Equipment under Performance Specifications or Design Criteria.	<a href="#">46.710(c)(1)</a>	C	Yes	I	O		O		O					O									
Alternate I	<a href="#">46.710(c)(2)</a>	C	Yes	I	O		O		O					O									
Alternate II	<a href="#">46.710(c)(3)</a>	C	Yes	I	O		O		O					O									
Alternate III	<a href="#">46.710(c)(4)</a>	C	Yes	I	O		O		O					O									
<a href="#">52.246-20</a> Warranty of Services.	<a href="#">46.710(d)</a>	C	Yes	I					O						O					O	O		
<a href="#">52.246-21</a> Warranty of Construction.	<a href="#">46.710(e)(1)</a>	C	Yes								O											O	
Alternate I	<a href="#">46.710(e)(2)</a>	C	Yes							O												O	
<a href="#">52.246-23</a> Limitation of Liability.	<a href="#">46.805</a>	C	Yes	I	A	A	A	A						A					A		O		
<a href="#">52.246-24</a> Limitation of Liability—High-Value Items.	<a href="#">46.805(a)</a>	C	Yes	I	A	A	A	A						A					A				
Alternate I	<a href="#">46.805(a)</a>	C	Yes	I	A	A	A	A					A	A					A				
<a href="#">52.246-25</a> Limitation of Liability—Services.	<a href="#">46.805(a)(4)</a>	C	Yes	I			A	A	A	A			A					A	A	A	O	A	
<a href="#">52.247-1</a> Commercial Bill of Lading Notations.	<a href="#">47.104-4</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	O	A	

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																			
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
<a href="#">52.247-2</a> Permits, Authorities, or Franchises.	<a href="#">47.207-1(a)</a>	C	No	I																	A	A		
<a href="#">52.247-3</a> Capability to Perform a Contract for the Relocation of a Federal Office.	<a href="#">47.207-1(b)(1)</a>	C	Yes	I																	A	A		
Alternate I	<a href="#">47.207-1(b)(2)</a>	C	Yes	I																		A		
<a href="#">52.247-4</a> Inspection of Shipping and Receiving Facilities.	<a href="#">47.207-1(c)</a>	P	Yes	L																	A			
<a href="#">52.247-5</a> Familiarization with Conditions.	<a href="#">47.207-1(d)</a>	C	Yes	I																	A	A		
<a href="#">52.247-6</a> Financial Statement.	<a href="#">47.207-1(e)</a>	P	Yes	L																	A	A		
<a href="#">52.247-7</a> Freight Excluded.	<a href="#">47.207-3(d)(2)</a>	C	Yes	I																	A	A		
<a href="#">52.247-8</a> Estimated Weights or Quantities Not Guaranteed.	<a href="#">47.207-3(e)(2)</a>	C	Yes	I																	A	A		
<a href="#">52.247-9</a> Agreed Weight—General Freight.	<a href="#">47.207-4(a)(1)</a>	C	Yes	I																	A	A		
<a href="#">52.247-10</a> Net Weight—General Freight.	<a href="#">47.207-4(a)(2)</a>	C	Yes	I																	A	A		
<a href="#">52.247-11</a> Net Weight—Household Goods or Office Furniture.	<a href="#">47.207-4(b)</a>	C	Yes	I																	A	A		
<a href="#">52.247-12</a> Supervision, Labor, or Materials.	<a href="#">47.207-5(b)</a>	C	Yes	I																	A	A		
<a href="#">52.247-13</a> Accessorial Services—Moving Contracts.	<a href="#">47.207-5(c)</a>	C	Yes	I																	A	A		
<a href="#">52.247-14</a> Contractor Responsibility for Receipt of Shipment.	<a href="#">47.207-5(d)</a>	C	Yes	I																	A	A		
<a href="#">52.247-15</a> Contractor Responsibility for Loading and Unloading.	<a href="#">47.207-5(e)</a>	C	Yes	I																	A	A		
<a href="#">52.247-16</a> Contractor Responsibility for Returning Undelivered Freight.	<a href="#">47.207-5(f)</a>	C	Yes	I																	A	A		
<a href="#">52.247-17</a> Charges.	<a href="#">47.207-6(a)(2)</a>	C	Yes	I																	A	A		
<a href="#">52.247-18</a> Multiple Shipments.	<a href="#">47.207-6(c)(5)(i)</a>	C	Yes	I																	A	A		
<a href="#">52.247-19</a> Stopping in Transit for Partial Unloading.	<a href="#">47.207-6(c)(5)(ii)</a>	C	No	I																	A	A		
<a href="#">52.247-20</a> Estimated Quantities or Weights for Evaluation of Offers.	<a href="#">47.207-6(c)(6)</a>	P	Yes	M																	A	A		
<a href="#">52.247-21</a> Contractor Liability for Personal Injury and/or Property Damage.	<a href="#">47.207-7(c)</a>	C	Yes	I																	A	A		
<a href="#">52.247-22</a> Contractor Liability for Loss of and/or Damage to Freight Other Than Household Goods.	<a href="#">47.207-7(d)</a>	C	Yes	I																	A	A		

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.247-23</a> Contractor Liability for Loss of and/or Damage to Household Goods.	<a href="#">47.207-7(e)</a>	C	Yes	I																A	A		
<a href="#">52.247-24</a> Advance Notification by the Government.	<a href="#">47.207-8(a)(1)</a>	C	Yes	I																A	A		
<a href="#">52.247-25</a> Government-Furnished Equipment With or Without Operators.	<a href="#">47.207-8(a)(2)(i)</a>	C	Yes	I																A	A		
<a href="#">52.247-26</a> Government Direction and Marking.	<a href="#">47.207-8(a)(3)</a>	C	Yes	I																A	A		
<a href="#">52.247-27</a> Contract Not Affected by Oral Agreement.	<a href="#">47.207-8(b)</a>	C	Yes	I																A	A		
<a href="#">52.247-28</a> Contractor's Invoices.	<a href="#">47.207-9(c)</a>	C	Yes	I																A	A		
<a href="#">52.247-29</a> F.o.b. Origin.	<a href="#">47.303-1(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-30</a> F.o.b. Origin, Contractor's Facility.	<a href="#">47.303-2(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-31</a> F.o.b. Origin, Freight Allowed.	<a href="#">47.303-3(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-32</a> F.o.b. Origin, Freight Prepaid.	<a href="#">47.303-4(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-33</a> F.o.b. Origin, with Differentials.	<a href="#">47.303-5(c)</a>	C	No	F	A						A								A		A		
<a href="#">52.247-34</a> F.o.b. Destination.	<a href="#">47.303-6(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-35</a> F.o.b. Destination, within Consignee's Premises.	<a href="#">47.303-7(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-36</a> F.a.s. Vessel, Port of Shipment.	<a href="#">47.303-8(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-37</a> F.o.b. Vessel, Port of Shipment.	<a href="#">47.303-9(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-38</a> F.o.b. Inland Carrier, Point of Exportation.	<a href="#">47.303-10(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-39</a> F.o.b. Inland Point, Country of Importation.	<a href="#">47.303-11(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-40</a> Ex Dock, Pier, or Warehouse, Port of Importation.	<a href="#">47.303-12(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-41</a> C.&f. Destination.	<a href="#">47.303-13(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-42</a> C.i.f. Destination.	<a href="#">47.303-14(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-43</a> F.o.b. Designated Air Carrier's Terminal, Point of Exportation.	<a href="#">47.303-15(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-44</a> F.o.b. Designated Air Carrier's Terminal, Point of Importation.	<a href="#">47.303-16(c)</a>	C	Yes	F	A														A		A		
<a href="#">52.247-45</a> F.o.b. Origin and/or F.o.b. Destination Evaluation.	<a href="#">47.305-2(b)</a>	P	Yes	L	A														A		A		

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.247-46</a> Shipping Point(s) Used in Evaluation of F.o.b. Origin Offers.	<a href="#">47.305-3(b)(4)(ii)</a>	P	Yes	L	A									A					A		A		
<a href="#">52.247-47</a> Evaluation—F.o.b. Origin.	<a href="#">47.305-3(f)(2)</a>	P	Yes	M	A									A					A		A		
<a href="#">52.247-48</a> F.o.b. Destination—Evidence of Shipment.	<a href="#">47.305-4(c)</a>	C	Yes	F	A									A					A		A		
<a href="#">52.247-49</a> Destination Unknown.	<a href="#">47.305-5(b)(2)</a>	P	Yes	M	A									A					A		A		
<a href="#">52.247-50</a> No Evaluation of Transportation Costs.	<a href="#">47.305-5(c)(1)</a>	P	Yes	M	A									A					A		A		
<a href="#">52.247-51</a> Evaluation of Export Offers.	<a href="#">47.305-6(e)</a>	P	No	M	A									A					A		A		
Alternate I	<a href="#">47.305-6(e)(1)</a>	P	No	M	A									A					A		A		
Alternate II	<a href="#">47.305-6(e)(2)</a>	P	No	M	A									A					A		A		
Alternate III	<a href="#">47.305-6(e)(3)</a>	P	No	M	A									A					A		A		
<a href="#">52.247-52</a> Clearance and Documentation Requirements—Shipments to DOD Air or Water Terminal Transshipment Points.	<a href="#">47.305-6(f)(2)</a>	C	Yes	F	A								A						A		A		
<a href="#">52.247-53</a> Freight Classification Description.	<a href="#">47.305-9(b)(1)</a>	P	No	K	A									A					A		A		
<a href="#">52.247-55</a> F.o.b. Point for Delivery of Government-Furnished Property.	<a href="#">47.305-12(a)(2)</a>	C	Yes	F	A									A					A		A		
<a href="#">52.247-56</a> Transit Arrangements.	<a href="#">47.305-13(a)(3)(ii)</a>	P	No	M	A									A					A				
<a href="#">52.247-57</a> Transportation Transit Privilege Credits.	<a href="#">47.305-13(b)(4)</a>	C	No	F	A									A					A		A		
<a href="#">52.247-58</a> Loading, Blocking, and Bracing of Freight Car Shipments.	<a href="#">47.305-15(a)(2)</a>	C	Yes	F	A									A					A		A		
<a href="#">52.247-59</a> F.o.b. Origin—Carload and Truckload Shipments.	<a href="#">47.305-16(a)</a>	C	Yes	F	A									A					A		A		
<a href="#">52.247-60</a> Guaranteed Shipping Characteristics.	<a href="#">47.305-16(b)(1)</a>	C	No	F	A									A					A				
<a href="#">52.247-61</a> F.o.b. Origin—Minimum Size of Shipments.	<a href="#">47.305-16(c)</a>	C	Yes	F	A									A					A		A		
<a href="#">52.247-62</a> Specific Quantities Unknown.	<a href="#">47.305-16(d)(2)</a>	C	No	F	A									A					A		A		
<a href="#">52.247-63</a> Preference for U.S.-Flag Air Carriers.	<a href="#">47.405</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		A	
<a href="#">52.247-64</a> Preference for Privately Owned U.S.-Flag Commercial Vessels.	<a href="#">47.507(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A		A
Alternate I	<a href="#">47.507(a)(2)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A			A	A	A		A
Alternate II	<a href="#">47.507(a)(3)</a>	C		I										A	A								
<a href="#">52.247-65</a> F.o.b. Origin, Prepaid Freight—Small Package Shipments.	<a href="#">47.303-17(f)</a>	C	Yes	F	A									A					A		A		

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																			
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
<a href="#">52.247-66</a> Returnable Cylinders.	<a href="#">47.305-17</a>	C	No	I	A				A		A					A				A				
<a href="#">52.247-67</a> Submission of Transportation Documents for Audit.	<a href="#">47.103-2</a>	C	No	I		A		A	A	A		A	A			A				A	A	A		
<a href="#">52.247-68</a> Report of Shipment (REPSHIP).	<a href="#">47.208-2</a>	C	Yes	I	A	A	A	A	A	A			A	A	A		A	A	A			A		
<a href="#">52.248-1</a> Value Engineering.	<a href="#">48.201</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A			A	A	A			A
Alternate I	<a href="#">48.201(c)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A			A	A	A			A
Alternate II	<a href="#">48.201(d)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A			A	A	A			A
Alternate III	<a href="#">48.201(e)(1)</a>	C	Yes	I	A	A	A	A	A	A			A	A	A	A	A	A	A	A	A			A
<a href="#">52.248-2</a> Value Engineering Program— Architect-Engineer.	<a href="#">48.201(f)</a>	C	Yes																A					
<a href="#">52.248-3</a> Value Engineering— Construction.	<a href="#">48.202</a>	C	Yes									A	A											
Alternate I	<a href="#">48.202</a>	C	Yes									A	A											
<a href="#">52.249-1</a> Termination for Convenience of the Government (Fixed-Price) (Short Form).	<a href="#">49.502(a)(1)</a>	C	Yes	I	A		A		A					A	A				A			A	A	A
Alternate I	<a href="#">49.502(a)(2)</a>	C	Yes	I															A					
<a href="#">52.249-2</a> Termination for Convenience of the Government (Fixed-Price).	<a href="#">49.502(b)(1)(i)</a>	C	Yes	I	A		A		A					A	A						A	A		A
Alternate I	<a href="#">49.502(b)(1)(ii)</a>	C	Yes	I								A												
Alternate II	<a href="#">49.502(b)(1)(iii)</a>	C	Yes	I	A		A		A					A	A						A	A		A
Alternate III	<a href="#">49.502(b)(1)(iii)</a>	C	Yes	I										A										
<a href="#">52.249-3</a> Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements).	<a href="#">49.502(b)(2)</a>	C	Yes	I															A					
Alternate I	<a href="#">49.502(b)(2)</a>	C	Yes	I															A					
<a href="#">52.249-4</a> Termination for Convenience of the Government (Services) (Short Form).	<a href="#">49.502(c)</a>	C	Yes	I					A														A	A
<a href="#">52.249-5</a> Termination for Convenience of the Government (Educational and Other Nonprofit Institutions).	<a href="#">49.502(d)</a>	C	Yes	I			A	A															A	

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																			
					FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
<a href="#">52.249-6</a> Termination (Cost-Reimbursement).	<a href="#">49.503(a)(1)</a>	C	Yes	I		A		A		A				A	A	A		A	A	A		A		
Alternate I	<a href="#">49.503(a)(2)</a>	C	Yes									A												
Alternate II	<a href="#">49.503(a)(3)</a>	C	Yes	I		A		A		A				A	A	A		A	A	A		A		
Alternate III	<a href="#">49.503(a)(3)</a>	C	Yes									A												
Alternate IV	<a href="#">49.503(a)(4)</a>	C	Yes	I									A											
Alternate V	<a href="#">49.503(a)(4)</a>	C	Yes	I									A											
<a href="#">52.249-7</a> Termination (Fixed-Price Architect-Engineer).	<a href="#">49.503(b)</a>	C	Yes														A					A		
<a href="#">52.249-8</a> Default (Fixed-Price Supply and Service).	<a href="#">49.504(a)(1)</a>	C	Yes	I	A				A					A					A		O	A		
Alternate I	<a href="#">49.504(a)(2)</a>	C	Yes	I																A	O			
<a href="#">52.249-9</a> Default (Fixed-Price Research and Development).	<a href="#">49.504(b)</a>	C	Yes	I			A															O		
<a href="#">52.249-10</a> Default (Fixed-Price Construction).	<a href="#">49.504(c)(1)</a>	C	Yes								A											O		
Alternate I	<a href="#">49.504(c)(2)</a>	C	Yes														A					O		
Alternate II	<a href="#">49.504(c)(3)</a>	C	Yes								O											O		
Alternate III	<a href="#">49.504(c)(3)</a>	C	Yes														A					O		
<a href="#">52.249-12</a> Termination (Personal Services).	<a href="#">49.505(a)</a>	C	Yes	I					A	A												A		
<a href="#">52.249-14</a> Excusable Delays.	<a href="#">49.505(b)</a>	C	Yes	I		A		A		A			A					A				A		
<a href="#">52.250-1</a> Indemnification under Public Law 85-804.	<a href="#">50.104-4</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.250-2</a> SAFETY Act Coverage Not Applicable.	<a href="#">50.206(a)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.250-3</a> SAFETY Act Block Designation/Certification.	<a href="#">50.206(b)(1)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">50.206(b)(2)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	<a href="#">50.206(b)(3)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.250-4</a> SAFETY Act Pre-qualification Designation Notice.	<a href="#">50.206(c)(1)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	<a href="#">50.206(c)(2)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	<a href="#">50.206(c)(3)</a>	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.250-5</a> SAFETY Act-Equitable Adjustment.	<a href="#">50.206(d)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.251-1</a> Government Supply Sources.	<a href="#">51.107</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A		A	A	A	A		
<a href="#">52.251-2</a> Interagency Fleet Management System Vehicles and Related Services.	<a href="#">51.205</a>	C	Yes	I		A		A		A						A								

PROVISION OR CLAUSE	PRESCRIBED IN	PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT																					
		P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.252-1</a> Solicitation Provisions Incorporated by Reference.	<a href="#">52.107(a)</a>	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.252-2</a> Clauses Incorporated by Reference.	<a href="#">52.107(b)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.252-3</a> Alterations in Solicitation.	<a href="#">52.107(c)</a>	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.252-4</a> Alterations in Contract.	<a href="#">52.107(d)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.252-5</a> Authorized Deviations in Provisions.	<a href="#">52.107(e)</a>	P	No	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.252-6</a> Authorized Deviations in Clauses.	<a href="#">52.107(f)</a>	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
<a href="#">52.253-1</a> Computer Generated Forms.	<a href="#">53.111</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	

**NOTE 1:**

The following clauses are prescribed for use in letter contracts:

- [52.216-23](#), Execution and Commencement of Work.
- [52.216-24](#), Limitation of Government Liability.
- [52.216-25](#), Contract Definitization.
- [52.216-25](#), Contract Definitization, Alternate I.

- [52.216-26](#), Payments of Allowable Costs Before Definitization.
- [52.232-16](#), Progress Payments, Alternate II.
- [52.244-2](#), Subcontracts.

Further instructions concerning provisions and clauses for letter contracts are set forth in 16.603-4(a).

**Note 2:**

The following clauses are prescribed for use in Small Business Administration 8(a) contracts:

- [52.219-11](#), Special 8(a) Contract Conditions.
- [52.219-12](#), Special 8(a) Subcontract Conditions.
- [52.219-14](#), Limitations on Subcontracting.
- [52.219-17](#), Section 8(a) Award.

- [52.219-18](#), Notification of Competition Limited to Eligible 8(a) Concerns.
- [52.219-18](#), Alternate I
- [52.219-18](#), Alternate II

**NOTE 3:**

FAR provisions and clauses not identified on the matrix may be used in contracts for commercial items consistent with the procedures and limitations in FAR [12.302](#)

**NOTE 4:**

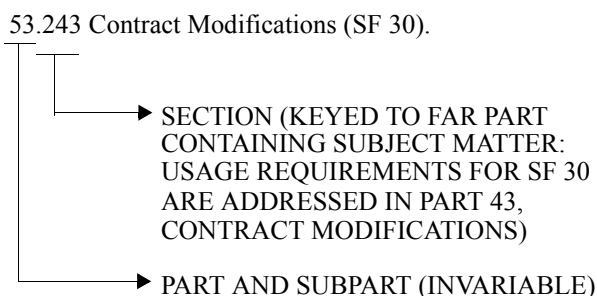
The following clause is prescribed for use in Information Technology Management Reform Act (ITMRA) contracts:  
[52.239-1](#), Privacy or Security Safeguards. "A".



## Subpart 53.2—Prescription of Forms

### 53.200 Scope of subpart.

This subpart prescribes standard forms and references optional forms and agency-prescribed forms for use in acquisition. Consistent with the approach used in [Subpart 52.2](#), this subpart is arranged by subject matter, in the same order as, and keyed to, the parts of the FAR in which the form usage requirements are addressed. For example, forms addressed in FAR [Part 14](#), Sealed Bidding, are treated in this subpart in section [53.214](#), Sealed Bidding; forms addressed in FAR [Part 43](#), Contract Modifications, are treated in this subpart in section [53.243](#), Contract modifications. The following example illustrates how the subjects are keyed to the parts in which they are addressed:



### 53.201 Federal acquisition system.

#### 53.201-1 Contracting authority and responsibilities (SF 1402).

[SF 1402](#) (10/83), *Certificate of Appointment*. [SF 1402](#) is prescribed for use in appointing contracting officers, as specified in [1.603-3](#).

#### 53.202 [Reserved]

#### 53.203 [Reserved]

### 53.204 Administrative matters.

#### 53.204-1 Safeguarding classified information within industry (DD Form 254, DD Form 441).

The following forms, which are prescribed by the Department of Defense, shall be used by agencies covered by the Defense Industrial Security Program if contractor access to classified information is required, as specified in and the clause at [52.204-2](#):

(a) [DD Form 254](#) (Department of Defense (DoD)), *Contract Security Classification Specification*. (See [4.403](#)(c)(1).)

(b) [DD Form 441](#) (DoD), *Security Agreement*. (See paragraph (b) of the clause at [52.204-2](#).)

#### 53.204-2 [Reserved]

### 53.205 Publicizing contract actions.

#### 53.205-1 Paid advertisements.

[SF 1449](#), prescribed in [53.212](#), shall be used to place orders for paid advertisements as specified in [5.503](#).

#### 53.206 [Reserved]

#### 53.207 [Reserved]

#### 53.208 [Reserved]

### 53.209 Contractor qualifications.

#### 53.209-1 Responsible prospective contractors.

The following forms are prescribed for use in conducting preaward surveys of prospective contractors, as specified in [9.106-1](#), [9.106-2](#), and [9.106-4](#):

(a) [SF 1403](#) (Rev. 9/88), *Preaward Survey of Prospective Contractor (General)*. [SF 1403](#) is authorized for local reproduction.

(b) [SF 1404](#) (Rev. 9/88), *Preaward Survey of Prospective Contractor—Technical*. [SF 1404](#) is authorized for local reproduction.

(c) [SF 1405](#) (Rev. 9/88), *Preaward Survey of Prospective Contractor—Production*. [SF 1405](#) is authorized for local reproduction.

(d) [SF 1406](#) (Rev. 11/97), *Preaward Survey of Prospective Contractor—Quality Assurance*. [SF 1406](#) is authorized for local reproduction.

(e) [SF 1407](#) (Rev. 9/88), *Preaward Survey of Prospective Contractor—Financial Capability*. [SF 1407](#) is authorized for local reproduction.

(f) [SF 1408](#) (Rev. 9/88), *Preaward Survey of Prospective Contractor—Accounting System*. [SF 1408](#) is authorized for local reproduction.

#### 53.210 [Reserved]

#### 53.211 [Reserved]

### 53.212 Acquisition of commercial items.

[SF 1449](#) (Rev. 2/2012), *Solicitation/Contract/Order for Commercial Items*. [SF 1449](#) is prescribed for use in solicitations and contracts for commercial items. Agencies may prescribe additional detailed instructions for use of the form.

### 53.213 Simplified acquisition procedures (SF's 18, 30, 44, 1165, 1449, and OF's 336, 347, and 348).

The following forms are prescribed as stated in this section for use in simplified acquisition procedures, orders under

existing contracts or agreements, and orders from required sources of supplies and services:

(a) [SF 18](#) (Rev. 6/95), *Request for Quotations*, or [SF 1449](#) (Rev. 2/2012), *Solicitation/Contract/Order for Commercial Items*. [SF 18](#) is prescribed for use in obtaining price, cost, delivery, and related information from suppliers as specified in [13.307](#)(b). [SF 1449](#), as prescribed in [53.212](#), or other agency forms/automated formats, may also be used to obtain price, cost, delivery, and related information from suppliers as specified in [13.307](#)(b).

(b) [SF 30](#) (Rev. 11/2016), *Amendment of Solicitation/Modification of Contract*. [SF 30](#), prescribed in [53.243](#), may be used for modifying purchase orders, as specified in [13.307](#)(c)(3).

(c) [SF 44](#) (Rev. 10/83), *Purchase Order Invoice Voucher*. [SF 44](#) is prescribed for use in simplified acquisition procedures, as specified in [13.306](#).

(d) [SF 1165](#) (6/83 Ed.), *Receipt for Cash-Subvoucher*. [SF 1165](#) (GAO) may be used for imprest fund purchases, as specified in [13.307](#)(e).

(e) [OF 336](#) (4/86 Ed.), *Continuation Sheet*. [OF 336](#), prescribed in [53.214](#)(h), may be used as a continuation sheet in solicitations, as specified in [13.307](#)(c)(1).

(f) [SF 1449](#) (Rev. 2/2012) *Solicitation/Contract/Order for Commercial Items* prescribed in [53.212](#), [OF 347](#) (Rev. 2/2012), *Order for Supplies or Services*, and [OF 348](#) (Rev. 4/06), *Order for Supplies or Services—Schedule Continuation*. [SF 1449](#), [OF 347](#) and [348](#) (or approved agency forms/automated formats) may be used as follows:

(1) To accomplish acquisitions under simplified acquisition procedures, as specified in [13.307](#).

(2) To establish blanket purchase agreements (BPA's), as specified in [13.303-2](#), and to make purchases under BPA's, as specified in [13.303-5](#).

(3) To issue orders under basic ordering agreements, as specified in [16.703](#)(d)(2)(i).

(4) As otherwise specified in this chapter (e.g., see [5.503](#)(a)(2), [8.406-1](#), [36.701](#)(b), and [51.102](#)(e)(3)(ii)).

### 53.214 Sealed bidding.

The following forms are prescribed for use in contracting by sealed bidding (except for construction and architect-engineer services):

(a) [SF 26](#) (Rev. 3/2013), *Award/Contract*. [SF 26](#) is prescribed for use in awarding sealed bid contracts for supplies or services in which bids were obtained on [SF 33](#), *Solicitation, Offer and Award*, as specified in [14.408-1](#)(d)(1). Block 18 may only be used for sealed-bid procurements.

(b) [SF 30](#), *Amendment of Solicitation/Modification of Contract*. [SF 30](#), prescribed in [53.243](#), shall be used in amending invitations for bids, as specified in [14.208](#)(a).

(c) [SF 33](#) (Rev. 9/97), *Solicitation, Offer and Award*. [SF 33](#) is prescribed for use in soliciting bids for supplies or services

and for awarding the contracts that result from the bids, as specified in [14.201-2](#)(a)(1), unless award is accomplished by [SF 26](#).

(d) [SF 1447](#) (Rev. 8/2016), *Solicitation/Contract*. [SF 1447](#) is prescribed for use in soliciting supplies or services and for awarding contracts that result from the bids. It shall be used when the simplified contract format is used (see [14.201-9](#)) and may be used in place of the [SF 26](#) or [SF 33](#) with other solicitations and awards. Agencies may prescribe additional detailed instructions for use of the form.

(e) [Reserved]

(f) [SF 1409](#) (Rev. 9/88), *Abstract of Offers*, and [SF 1410](#) (9/88), *Abstract of Offers—Continuation*. [SF 1409](#) and [SF 1410](#) are prescribed for use in recording bids, as specified in [14.403](#)(a).

(g) [OF 17](#) (Rev. 12/93), *Offer Label*. [OF 17](#) may be furnished with each invitation for bids to facilitate identification and handling of bids, as specified in [14.202-3](#)(b).

(h) [OF 336](#) (Rev. 3/86), *Continuation Sheet*. [OF 336](#) may be used as a continuation sheet in solicitations, as specified in [14.201-2](#)(b).

### 53.215 Contracting by negotiation.

#### 53.215-1 Solicitation and receipt of proposals.

The following forms are prescribed, as stated in the following paragraphs, for use in contracting by negotiation (except for construction, architect-engineer services, or acquisitions made using simplified acquisition procedures):

(a) [SF 26](#) (Rev. 3/2013), *Award/Contract*. [SF 26](#), prescribed in [53.214](#)(a), may be used in entering into negotiated contracts in which the signature of both parties on a single document is appropriate, as specified in [15.509](#). Block 18 may not be used for negotiated procurements.

(b) [SF 30](#) (Rev. 11/2016), *Amendment of Solicitation/Modification of Contract*. [SF 30](#), prescribed in [53.243](#), may be used for amending requests for proposals and for amending requests for information, as specified in [15.210](#)(b).

(c) [SF 33](#) (Rev. 9/97), *Solicitation, Offer and Award*. [SF 33](#), prescribed in [53.214](#)(c), may be used in connection with the solicitation and award of negotiated contracts. Award of such contracts may be made by either [OF 307](#), [SF 33](#), or [SF 26](#), as specified in [53.214](#)(c) and [15.509](#).

(d) [OF 17](#) (Rev. 12/93), *Offer Label*. [OF 17](#) may be furnished with each request for proposals to facilitate identification and handling of proposals, as specified in [15.210](#)(c).

(e) [OF 307](#) (Rev. 8/2016), *Contract Award*. [OF 307](#) may be used to award negotiated contracts as specified in [15.509](#).

(f) [OF 308](#) (Rev. 9/97), *Solicitation and Offer-Negotiated Acquisition*. [OF 308](#) may be used to support solicitation of negotiated contracts as specified in [15.210](#)(a). Award of such contracts may be made by [OF 307](#), as specified in [15.509](#).

**53.241 [Reserved]**

**53.242 Contract administration.**

**53.242-1 Novation and change-of-name agreements (SF 30).**

[SF 30](#), *Amendment of Solicitation/Modification of Contract*, [SF 30](#), prescribed in [53.243](#), shall be used in connection with novation and change of name agreements, as specified in [42.1203\(h\)](#).

**53.243 Contract modifications (SF 30).**

[SF 30](#) (Rev. 11/2016), *Amendment of Solicitation/ Modification of Contract*. [SF 30](#) is prescribed for use in amending invitation for bids, as specified in [14.208](#); modifying purchase and delivery orders, as specified in [13.302-3](#); and modifying contracts, as specified in [42.1203\(h\)](#), [43.301](#), [49.602-5](#), and elsewhere in this regulation. The form may also be used to amend solicitations for negotiated contracts, as specified in [15.210\(b\)](#). Pending the publication of a new edition of the form, Instruction (b), Item 3 (effective date), is revised in paragraphs (3) and (5) as follows:

(b) Item 3 (effective date).

\* \* \* \* \*

(3) For a modification issued as a confirming notice of termination for the convenience of the Government, the effective date of the confirming notice shall be the same as the effective date of the initial notice.

\* \* \* \* \*

(5) For a modification confirming the termination contracting officer’s previous letter determination of the amount due in settlement of a contract termination for convenience, the effective date shall be the same as the effective date of the previous letter determination.

**53.244 [Reserved]**

**53.245 Government property.**

The following forms are prescribed, as specified in this section, for use in reporting, reutilization, and disposal of Government property and in accounting for this property:

(a) [SF 120](#) (GSA), *Report of Excess Personal Property*, and [SF 120A](#) (GSA), *Continuation Sheet (Report of Excess Personal Property)*. (See [45.602-3](#) and 41 CFR 102-36.215.)

(b) [SF 126](#) (GSA), *Report of Personal Property for Sale*, and [SF 126A](#) (GSA), *Report of Personal Property for Sale*

(*Continuation Sheet*). (See FPMR 101-45.303 (41 CFR 101-45.303.))

(c) [SF 1423](#) (Rev. 5/04), *Inventory Verification Survey*. (See [45.602-1\(b\)\(1\)](#).)

(d) [SF 1424](#) (Rev. 5/2004), *Inventory Disposal Report* (See [45.605](#)). [SF 1424](#) is authorized for local reproduction.

(e) [SF 1428](#) (Rev. 6/2007), *Inventory Disposal Schedule*, and [SF 1429](#) (Rev. 5/2004), *Inventory Disposal Schedule—Continuation Sheet*. (See [45.602-1](#), [49.303-2](#), [52.245-1](#), and [53.249\(b\)](#).) SF’s [1428](#) and [1429](#) are authorized for local reproduction.

**53.246 [Reserved]**

**53.247 Transportation (U.S. Commercial Bill of Lading).**

The commercial bill of lading is the preferred document for the transportation of property, as specified in [47.101](#).

**53.248 [Reserved]**

**53.249 Termination of contracts.**

(a) The following forms are prescribed for use in connection with the termination of contracts, as specified in [Subpart 49.6](#):

(1) [SF 1034](#) (GAO), *Public Voucher for Purchases and Services Other than Personal*. (See [49.302\(a\)](#).)

(2) [SF 1435](#) (Rev. 9/97), *Settlement Proposal (Inventory Basis)*. (See [49.602-1\(a\)](#).) [Standard Form 1435](#) is authorized for local reproduction.

(3) [SF 1436](#) (Rev. 5/2004), *Settlement Proposal (Total Cost Basis)*. (See [49.602-1\(b\)](#).) [Standard Form 1436](#) is authorized for local reproduction.

(4) [SF 1437](#) (Rev. 9/97), *Settlement Proposal for Cost-Reimbursement Type Contracts*. (See [49.602-1\(c\)](#) and [49.302](#).) [Standard Form 1437](#) is authorized for local reproduction.

(5) [SF 1438](#) (Rev. 5/2004), *Settlement Proposal (Short Form)*. (See [49.602-1\(d\)](#).) [Standard Form 1438](#) is authorized for local reproduction.

(6) [SF 1439](#) (Rev. 7/89), *Schedule of Accounting Information*. (See [49.602-3](#).) [Standard Form 1439](#) is authorized for local reproduction.

(7) [SF 1440](#) (Rev. 7/89), *Application for Partial Payment*. (See [49.602-4](#).) [Standard Form 1440](#) is authorized for local reproduction.

(b) [SF 1428](#) (Rev. 6/2007), *Inventory Disposal Schedule*, and [Standard Form 1429](#) (Rev. 5/2004), *Inventory Disposal Schedule—Continuation Sheet*, shall be used to support termination settlement proposals listed in paragraph (a) of this section, as specified in [49.602-2](#).

**53.250 [Reserved]**

**53.251 Contractor use of Government supply sources  
(OF 347).**

*OF 347, Order for Supplies or Services.* [OF 347](#), prescribed in [53.213](#)(f), may be used by contractors when requisitioning from the VA, as specified in [51.102](#)(e)(3)(ii).

---

# Standard Form 30

[Go to <http://www.gsa.gov/forms> to access this form.]

