

# FEDERAL ACQUISITION CIRCULAR

July 25, 2014

Number 2005-76  
Effective July 25, 2014  
Looseleaf pages

Federal Acquisition Circular (FAC) 2005-76 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 2005-76 is effective July 25, 2014 except for Item II which is effective August 25, 2014.

**(BLANK PAGE)**

## FAC 2005-76 List of Subjects

<u>Item</u>	<u>Title</u>	<u>Page</u>
I	Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities	v
II	Small Business Protests and Appeals	v
III	Allowability of Legal Costs for Whistleblower Proceedings	vi
IV	Technical Amendments	vi

**(BLANK PAGE)**

## FAC 2005-76 SUMMARY OF ITEMS

Federal Acquisition Circular (FAC) 2005-76 amends the Federal Acquisition Regulation (FAR) as specified below:

### **Item I- Equal Employment and Affirmative Action for Veterans and Individuals with Disabilities (FAR Case 2014-013)**

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement final rules issued on September 24, 2013, by the Office of Federal Contract Compliance Programs at the Department of Labor (DOL) relating to equal opportunity and affirmative action for veterans and individuals with disabilities. The DOL rules provide clarification of mandatory listing of employment openings, the posting of notices, making notices accessible to persons with disabilities, and requiring nondiscrimination statements in contractor solicitations or advertisements for employees. The FAR clauses have been restructured to provide a citation to the applicable clause in the DOL regulations and include a statement that summarizes the contractors' top level obligations under each clause. There is no significant impact on small entities imposed by the FAR rules.

**Replacement pages:** 1.1-3 thru 1.1-6; 22.13-1 thru 22.13-4; 22.14-1 and 22.14-2; 52.2-37 thru 52.2-42.2; 52.2-119 thru 52.2-132.2; 52.2-263 thru 52.2-266; and 52.3-15 and 52.3-16.

### **Item II- Small Business Protests and Appeals (FAR Case 2012-014)**

This final rule amends the FAR to provide revised regulatory coverage for small business size and small business status protest and appeal procedures and to ensure that the FAR contains consistent and coherent protest and appeal procedures that are congruent with Small Business Administration regulations.

This final rule will have no direct negative impact on any small business concern, since it is aimed at preventing other than small business concerns from receiving or performing contracts set aside for small business concerns. This rule will indirectly benefit small business concerns by preventing awards to ineligible concerns, or shortening the length of time other than small business concerns perform small business set-aside contracts.

**Replacement pages:** THE 30-DAY PAGES WILL BE POSTED ON THEIR EFFECTIVE DATE OF August 25, 2014.

**Item III- Allowability of Legal Costs for Whistleblower Proceedings  
(FAR Case 2013-017)**

This finalizes an interim rule that revised the cost principle at FAR 31.205-47 to implement sections 827(g) and 828(d) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239). The cost principle addresses the allowability of legal costs incurred by a contractor or subcontractor in connection with a whistleblower protection proceeding commenced by a contractor or subcontractor employee submitting a complaint of reprisal under the applicable whistleblower statute. The cost principle is revised in the final rule to allow reasonable legal proceeding costs in certain settlements. Because most contracts awarded to small businesses are awarded on a competitive, fixed-price basis, thus limiting their exposure to the cost principles, the impact of this interim rule on small businesses will be minimal.

**Replacement pages:** 31.2-27 and 31.2-28.

**Item IV- Technical Amendments**

Editorial changes are made at FAR 4.605, 4.1601 and 32.009-1. The change at 32.009-1 shows the recent extension of the policy to provide accelerated payment to small business subcontractors.

**Replacement pages:** 4.6-1 and 4.6-2; 4.16-1 and 4.16-2; and 32.1-3 and 32.1-4.

**Looseleaf Only Correction**

1. Amend section 52.223-13 by removing from the prescription "23.705(c)(1)" and adding "23.705(b)(1)" in its place.

**Replacement pages:** 52.2-137 and 52.2-138.

## FAC 2005-76 FILING INSTRUCTIONS

**NOTE:** The FAR is segmented by subparts. The FAR page numbers reflect FAR Subparts. For example, "1.1-3" is page 3 of subpart 1.1.

### Remove Pages

1.1-3 thru 1.1-6

4.6-1 and 4.6-2  
4.16-1 and 4.16-2

22.13-1 thru 22.13-4  
22.14-1 and 22.14-2

31.2-27 and 31.2-28

32.1-3 and 32.1-4

### Part 52 TOC

pp. 52-3 and 52-4  
52.2-37 thru 52.2-42.2  
52.2-119 thru 52.2-132.4  
52.2-137 and 52.2-138  
52.2-263 thru 52.2-266

### Matrix

pp. 52.3-15 and 52.3-16

### Insert Pages

1.1-3 thru 1.1-6

4.6-1 and 4.6-2  
4.16-1 and 4.16-2

22.13-1 thru 22.13-4  
22.14-1 and 22.14-2

31.2-27 and 31.2-28

32.1-3 and 32.1-4

### Part 52 TOC

pp. 52-3 and 52-4  
52.2-37 thru 52.2-42.2  
52.2-119 thru 52.2-132.2  
52.2-137 and 52.2-138  
52.2-263 thru 52.2-266

### Matrix

pp. 52.3-15 and 52.3-16

(BLANK PAGE)



**1.104 Applicability.**

The FAR applies to all acquisitions as defined in [Part 2](#) of the FAR, except where expressly excluded.

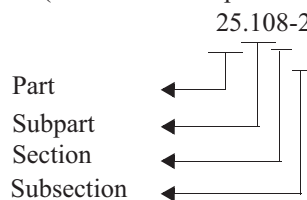
**1.105 Issuance.**

**1.105-1 Publication and code arrangement.**

- (a) The FAR is published in—
  - (1) The daily issue of the *Federal Register*;
  - (2) Cumulated form in the *Code of Federal Regulations* (CFR); and
  - (3) A separate loose-leaf edition.
- (b) The FAR is issued as Chapter 1 of Title 48, CFR. Subsequent chapters are reserved for agency acquisition regulations that implement or supplement the FAR (see [Subpart 1.3](#)). The CFR Staff will assign chapter numbers to requesting agencies.
- (c) Each numbered unit or segment (e.g., part, subpart, section, etc.) of an agency acquisition regulation that is codified in the CFR shall begin with the chapter number. However, the chapter number assigned to the FAR will not be included in the numbered units or segments of the FAR.

**1.105-2 Arrangement of regulations.**

- (a) *General.* The FAR is divided into subchapters, parts (each of which covers a separate aspect of acquisition), subparts, sections, and subsections.
- (b) *Numbering.* (1) The numbering system permits the discrete identification of every FAR paragraph. The digits to the left of the decimal point represent the part number. The numbers to the right of the decimal point and to the left of the dash represent, in order, the subpart (one or two digits), and the section (two digits). The number to the right of the dash represents the subsection. Subdivisions may be used at the section and subsection level to identify individual paragraphs. The following example illustrates the make-up of a FAR number citation (note that subchapters are not used with citations):



- (2) Subdivisions below the section or subsection level consist of parenthetical alpha numerics using the following sequence:

(a)(1)(i)(A)(I)(i)

- (c) *References and citations.* (1) Unless otherwise stated, cross-references indicate parts, subparts, sections, subsections, paragraphs, subparagraphs, or subdivisions of this regulation.
- (2) This regulation may be referred to as the Federal Acquisition Regulation or the FAR.

(3) Using the FAR coverage at 9.106-4(d) as a typical illustration, reference to the—

- (i) Part would be “FAR part 9” outside the FAR and “part 9” within the FAR.
  - (ii) Subpart would be “FAR subpart 9.1” outside the FAR and “subpart 9.1” within the FAR.
  - (iii) Section would be “FAR 9.106” outside the FAR and “9.106” within the FAR.
  - (iv) Subsection would be “FAR 9.106-4” outside the FAR and “9.106-4” within the FAR.
  - (v) Paragraph would be “FAR 9.106-4(d)” outside the FAR and “9.106-4(d)” within the FAR.
- (4) Citations of authority (e.g., statutes or Executive orders) in the FAR shall follow the *Federal Register* form guides.

**1.105-3 Copies.**

Copies of the FAR in *Federal Register*, loose-leaf, CD-ROM, and CFR form may be purchased from the—  
 Superintendent of Documents  
 Government Printing Office (GPO)  
 Washington, DC 20402.

**1.106 OMB approval under the Paperwork Reduction Act.**

The Paperwork Reduction Act of 1980 ([44 U.S.C. chapter 35](#)) imposes a requirement on Federal agencies to obtain approval from the Office of Management and Budget (OMB) before collecting information from 10 or more members of the public. The information collection and recordkeeping requirements contained in this regulation have been approved by the OMB. The following OMB control numbers apply:

FAR segment	OMB Control Number
<a href="#">3.103</a>	9000-0018
<a href="#">3.11</a>	9000-0181
<a href="#">3.4</a>	9000-0003
<a href="#">4.102</a>	9000-0033
<a href="#">4.14</a>	9000-0177
<a href="#">4.5</a>	9000-0137
<a href="#">4.605</a>	9000-0145
<a href="#">4.607</a>	9000-0145
<a href="#">4.7</a>	9000-0034
<a href="#">4.9</a>	9000-0097
<a href="#">4.17</a>	9000-0179
<a href="#">5.405</a>	9000-0036
<a href="#">7.2</a>	9000-0082
<a href="#">8.5</a>	9000-0113
<a href="#">9.1</a>	9000-0011
<a href="#">9.2</a>	9000-0020
<a href="#">14.201</a>	9000-0034
<a href="#">14.202-4</a>	9000-0040
<a href="#">14.202-5</a>	9000-0039
<a href="#">14.205</a>	9000-0037

FAR segment	OMB Control Number	FAR segment	OMB Control Number
<a href="#">14.407</a>	9000-0038	<a href="#">47</a>	9000-0061
<a href="#">14.5</a>	9000-0041	<a href="#">47.208</a>	9000-0056
<a href="#">15.2</a>	9000-0037	<a href="#">48</a>	9000-0027
<a href="#">15.209</a>	9000-0034	<a href="#">49</a>	9000-0028
<a href="#">15.4</a>	9000-0013	<a href="#">50</a>	9000-0029
<a href="#">15.404-1(f)</a>	9000-0080	<a href="#">51.1</a>	9000-0031
<a href="#">15.407-2</a>	9000-0078	<a href="#">51.2</a>	9000-0032
<a href="#">15.408</a>	9000-0115	<a href="#">52.203-2</a>	9000-0018
<a href="#">19.7</a>	9000-0006 and 9000-0007	<a href="#">52.203-7</a>	9000-0091
<a href="#">19.12</a>	9000-0150	<a href="#">52.203-16</a>	9000-0181
<a href="#">22.103</a>	9000-0065	<a href="#">52.204-3</a>	9000-0097
<a href="#">22.8</a>	1215-0072	<a href="#">52.204-6</a>	9000-0145
<a href="#">22.11</a>	9000-0066	<a href="#">52.204-7</a>	9000-0159
<a href="#">22.12</a>	1235-0007 and 1235-0025	<a href="#">52.204-10</a>	9000-0177
<a href="#">22.13</a>	1293-0005 and 1250-0004	<a href="#">52.204-12</a>	9000-0145
<a href="#">22.14</a>	1250-0005	<a href="#">52.204-13</a>	9000-0159
<a href="#">22.16</a>	1215-0209	<a href="#">52.204-14</a>	9000-0179
<a href="#">23.602</a>	9000-0107	<a href="#">52.204-15</a>	9000-0179
<a href="#">25.302</a>	9000-0184	<a href="#">52.207-3</a>	9000-0114
<a href="#">27.2</a>	9000-0096	<a href="#">52.208-8</a>	9000-0113
<a href="#">27.3</a>	9000-0095	<a href="#">52.208-9</a>	9000-0113
<a href="#">27.4</a>	9000-0090	<a href="#">52.209-1(b)</a>	9000-0020
<a href="#">28.1</a>	9000-0045	<a href="#">52.209-1(c)</a>	9000-0083
<a href="#">28.2</a>	9000-0045	<a href="#">52.209-5</a>	9000-0094
<a href="#">29.304</a>	9000-0059	<a href="#">52.209-6</a>	9000-0094
<a href="#">30.6</a>	9000-0129	<a href="#">52.209-7</a>	9000-0174
<a href="#">31.205-46</a>	9000-0079	<a href="#">52.209-9</a>	9000-0174
<a href="#">31.205-46(a)(3)</a>	9000-0088	<a href="#">52.211-8</a>	9000-0043
<a href="#">32</a>	9000-0035	<a href="#">52.211-9</a>	9000-0043
<a href="#">32.000</a>	9000-0138	<a href="#">52.212-1(k)</a>	9000-0159
<a href="#">32.1</a>	9000-0070 and 9000-0138	<a href="#">52.212-3</a>	9000-0136
<a href="#">32.2</a>	9000-0138	<a href="#">52.212-4(t)</a>	9000-0159
<a href="#">32.4</a>	9000-0073	<a href="#">52.214-14</a>	9000-0047
<a href="#">32.5</a>	9000-0010 and 9000-0138	<a href="#">52.214-15</a>	9000-0044
<a href="#">32.7</a>	9000-0074	<a href="#">52.214-16</a>	9000-0044
<a href="#">32.9</a>	9000-0102	<a href="#">52.214-21</a>	9000-0039
<a href="#">32.10</a>	9000-0138	<a href="#">52.214-26</a>	9000-0034
<a href="#">33</a>	9000-0035	<a href="#">52.214-28</a>	9000-0013
<a href="#">36.213-2</a>	9000-0037	<a href="#">52.215-2</a>	9000-0034
<a href="#">36.603</a>	9000-0157	<a href="#">52.215-1(c)(2)(iv)</a>	9000-0048
<a href="#">41.202(c)</a>	9000-0125	<a href="#">52.215-1(d)</a>	9000-0044
<a href="#">42.7</a>	9000-0013	<a href="#">52.215-6</a>	9000-0047
<a href="#">42.12</a>	9000-0076	<a href="#">52.215-9</a>	9000-0078
<a href="#">42.13</a>	9000-0076	<a href="#">52.215-12</a>	9000-0013
<a href="#">45</a>	9000-0075	<a href="#">52.215-13</a>	9000-0013
<a href="#">46</a>	9000-0077	<a href="#">52.215-14</a>	9000-0080
		<a href="#">52.215-19</a>	9000-0115
		<a href="#">52.215-20</a>	9000-0013
		<a href="#">52.215-21</a>	9000-0013
		<a href="#">52.215-22</a>	9000-0173
		<a href="#">52.215-23</a>	9000-0173

<b>FAR segment</b>	<b>OMB Control Number</b>	<b>FAR segment</b>	<b>OMB Control Number</b>
<a href="#">52.216-2</a>	9000-0068	<a href="#">52.225-9</a>	9000-0141
<a href="#">52.216-3</a>	9000-0068	<a href="#">52.225-11</a>	9000-0141
<a href="#">52.216-4</a>	9000-0068	<a href="#">52.225-18</a>	9000-0161
<a href="#">52.216-5</a>	9000-0071	<a href="#">52.225-21</a>	9000-0141
<a href="#">52.216-6</a>	9000-0071	<a href="#">52.225-23</a>	9000-0141
<a href="#">52.216-7</a>	9000-0069	<a href="#">52.227-2</a>	9000-0096
<a href="#">52.216-10</a>	9000-0067	<a href="#">52.227-6</a>	9000-0096
<a href="#">52.216-15</a>	9000-0069	<a href="#">52.227-9</a>	9000-0096
<a href="#">52.216-16</a>	9000-0067	<a href="#">52.227-14</a>	9000-0090
<a href="#">52.216-17</a>	9000-0067	<a href="#">52.227-15</a>	9000-0090
<a href="#">52.219-9</a>	9000-0006 and	<a href="#">52.227-16</a>	9000-0090
	9000-0007	<a href="#">52.227-17</a>	9000-0090
<a href="#">52.219-10</a>	9000-0006	<a href="#">52.227-18</a>	9000-0090
<a href="#">52.219-22</a>	9000-0150	<a href="#">52.227-19</a>	9000-0090
<a href="#">52.219-23</a>	9000-0150	<a href="#">52.227-20</a>	9000-0090
<a href="#">52.219-25</a>	9000-0150	<a href="#">52.227-21</a>	9000-0090
<a href="#">52.219-28</a>	9000-0163	<a href="#">52.227-22</a>	9000-0090
<a href="#">52.219-29</a>	3245-0374	<a href="#">52.227-23</a>	9000-0090
<a href="#">52.219-30</a>	3245-0374	<a href="#">52.228-1</a>	9000-0045
<a href="#">52.222-2</a>	9000-0065	<a href="#">52.228-2</a>	9000-0045
<a href="#">52.222-4</a>	1215-0119	<a href="#">52.228-12</a>	9000-0135
<a href="#">52.222-6</a>	1215-0140	<a href="#">52.228-13</a>	9000-0045
<a href="#">52.222-8</a>	1215-0149 and	<a href="#">52.228-15</a>	9000-0045
	1215-0017	<a href="#">52.228-16</a>	9000-0045
<a href="#">52.222-11</a>	9000-0014	<a href="#">52.229-2</a>	9000-0059
<a href="#">52.222-17</a>	1235-0007 and	<a href="#">52.230-6</a>	9000-0129
	1235-0025	<a href="#">52.232-1</a>	9000-0070
<a href="#">52.222-18</a>	9000-0127	<a href="#">52.232-2</a>	9000-0070
<a href="#">52.222-21</a>	1215-0072	<a href="#">52.232-3</a>	9000-0070
<a href="#">52.222-22</a>	1215-0072	<a href="#">52.232-4</a>	9000-0070
<a href="#">52.222-23</a>	1215-0072	<a href="#">52.232-5</a>	9000-0070
<a href="#">52.222-25</a>	1215-0072	<a href="#">52.232-6</a>	9000-0070
<a href="#">52.222-26</a>	1215-0072	<a href="#">52.232-7</a>	9000-0070
<a href="#">52.222-27</a>	1215-0072	<a href="#">52.232-8</a>	9000-0070
<a href="#">52.222-32</a>	9000-0154	<a href="#">52.232-9</a>	9000-0070
<a href="#">52.222-35</a>	1250-0004	<a href="#">52.232-10</a>	9000-0070
<a href="#">52.222-36</a>	1250-0005	<a href="#">52.232-11</a>	9000-0070
<a href="#">52.222-37</a>	1293-0005	<a href="#">52.232-12</a>	9000-0073
<a href="#">52.222-40</a>	1215-0209	<a href="#">52.232-13</a>	9000-0010
<a href="#">52.222-41</a>	1215-0017 and	<a href="#">52.232-14</a>	9000-0010
	1215-0150	<a href="#">52.232-15</a>	9000-0010
<a href="#">52.222-46</a>	9000-0066	<a href="#">52.232-16</a>	9000-0010
<a href="#">52.223-2</a>	9000-0180	<a href="#">52.232-20</a>	9000-0074
<a href="#">52.223-4</a>	9000-0134	<a href="#">52.232-22</a>	9000-0074
<a href="#">52.223-5</a>	9000-0147	<a href="#">52.232-27</a>	9000-0102
<a href="#">52.223-6(b)(5)</a>	9000-0101	<a href="#">52.232-29</a>	9000-0138
<a href="#">52.223-7</a>	9000-0107	<a href="#">52.232-30</a>	9000-0138
<a href="#">52.223-9</a>	9000-0134	<a href="#">52.232-31</a>	9000-0138
<a href="#">52.225-2</a>	9000-0024	<a href="#">52.232-32</a>	9000-0138
<a href="#">52.225-4</a>	9000-0130	<a href="#">52.233-1</a>	9000-0035
<a href="#">52.225-6</a>	9000-0025	<a href="#">52.236-5</a>	9000-0062
<a href="#">52.225-8</a>	9000-0022		

FAR segment	OMB Control Number	FAR segment	OMB Control Number
<a href="#">52.236-13</a>	1220-0029 and 9000-0060	<a href="#">52.248-2</a>	9000-0027
<a href="#">52.236-15</a>	9000-0058	<a href="#">52.248-3</a>	9000-0027
<a href="#">52.236-19</a>	9000-0064	<a href="#">52.249-2</a>	9000-0028
<a href="#">52.241-1</a>	9000-0126	<a href="#">52.249-3</a>	9000-0028
<a href="#">52.241-3</a>	9000-0122	<a href="#">52.249-5</a>	9000-0028
<a href="#">52.241-7</a>	9000-0123	<a href="#">52.249-6</a>	9000-0028
<a href="#">52.241-13</a>	9000-0124	<a href="#">52.249-11</a>	9000-0028
<a href="#">52.243-1</a>	9000-0026	<a href="#">52.250-1</a>	9000-0029
<a href="#">52.243-2</a>	9000-0026	<a href="#">SF 24</a>	9000-0045
<a href="#">52.243-3</a>	9000-0026	<a href="#">SF 25</a>	9000-0045
<a href="#">52.243-4</a>	9000-0026	<a href="#">SF 25A</a>	9000-0045
<a href="#">52.243-6</a>	9000-0026	<a href="#">SF 28</a>	9000-0001
<a href="#">52.243-7</a>	9000-0026	<a href="#">SF 34</a>	9000-0045
<a href="#">52.245-1</a>	9000-0075	<a href="#">SF 35</a>	9000-0045
<a href="#">52.245-9</a>	9000-0075	<a href="#">SF 273</a>	9000-0045
<a href="#">52.246-2</a>	9000-0077	<a href="#">SF 274</a>	9000-0045
<a href="#">52.246-3</a>	9000-0077	<a href="#">SF 275</a>	9000-0045
<a href="#">52.246-4</a>	9000-0077	<a href="#">SF 330</a>	9000-0157
<a href="#">52.246-5</a>	9000-0077	<a href="#">SF 1403</a>	9000-0011
<a href="#">52.246-6</a>	9000-0077	<a href="#">SF 1404</a>	9000-0011
<a href="#">52.246-7</a>	9000-0077	<a href="#">SF 1405</a>	9000-0011
<a href="#">52.246-8</a>	9000-0077	<a href="#">SF 1406</a>	9000-0011
<a href="#">52.246-10</a>	9000-0077	<a href="#">SF 1407</a>	9000-0011
<a href="#">52.246-12</a>	9000-0077	<a href="#">SF 1408</a>	9000-0011
<a href="#">52.246-15</a>	9000-0077	<a href="#">SF 1413</a>	9000-0014
<a href="#">52.247-2</a>	9000-0053	<a href="#">SF 1416</a>	9000-0045
<a href="#">52.247-29</a>	9000-0061	<a href="#">SF 1418</a>	9000-0045
<a href="#">52.247-30</a>	9000-0061	<a href="#">SF 1428</a>	9000-0075
<a href="#">52.247-31</a>	9000-0061	<a href="#">SF 1429</a>	9000-0075
<a href="#">52.247-32</a>	9000-0061	<a href="#">SF 1435</a>	9000-0012
<a href="#">52.247-33</a>	9000-0061	<a href="#">SF 1436</a>	9000-0012
<a href="#">52.247-34</a>	9000-0061	<a href="#">SF 1437</a>	9000-0012
<a href="#">52.247-35</a>	9000-0061	<a href="#">SF 1438</a>	9000-0012
<a href="#">52.247-36</a>	9000-0061	<a href="#">SF 1439</a>	9000-0012
<a href="#">52.247-37</a>	9000-0061	<a href="#">SF 1440</a>	9000-0012
<a href="#">52.247-38</a>	9000-0061	<a href="#">SF 1443</a>	9000-0010
<a href="#">52.247-39</a>	9000-0061	<a href="#">SF 1444</a>	9000-0089
<a href="#">52.247-40</a>	9000-0061	<a href="#">SF 1445</a>	9000-0089
<a href="#">52.247-41</a>	9000-0061	<a href="#">SF 1446</a>	9000-0089
<a href="#">52.247-42</a>	9000-0061	<a href="#">OF 312</a>	9000-0150
<a href="#">52.247-43</a>	9000-0061		
<a href="#">52.247-44</a>	9000-0061		
<a href="#">52.247-48</a>	9000-0061		
<a href="#">52.247-51</a>	9000-0057		
<a href="#">52.247-53</a>	9000-0055		
<a href="#">52.247-57</a>	9000-0061		
<a href="#">52.247-63</a>	9000-0054		
<a href="#">52.247-64</a>	9000-0061		
<a href="#">52.247-68</a>	9000-0056		
<a href="#">52.248-1</a>	9000-0027		

### 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 Administra-

## Subpart 4.6—Contract Reporting

### 4.600 Scope of subpart.

This subpart prescribes uniform reporting requirements for the Federal Procurement Data System (FPDS).

#### 4.601 Definitions.

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 over the micro-purchase threshold, or modifications to these actions regardless of dollar value. 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.

“*Contract action report (CAR)*” means contract action data required to be entered into the Federal Procurement Data System (FPDS).

“*Definitive contract*” means any contract that must be reported to FPDS other than an indefinite delivery vehicle. This definition is only for FPDS, and is not intended to apply to [Part 16](#).

“*Entitlement program*” means a Federal program that guarantees a certain level of benefits to persons or other entities who meet requirements set by law, such as Social Security, farm price supports, or unemployment benefits.

“*Generic DUNS number*” means a DUNS number assigned to a category of vendors not specific to any individual or entity.

“*Indefinite delivery vehicle (IDV)*” means an indefinite delivery contract or agreement that has one or more of the following clauses:

- (1) [52.216-18](#), Ordering.
- (2) [52.216-19](#), Order Limitations.
- (3) [52.216-20](#), Definite Quantity.
- (4) [52.216-21](#), Requirements.
- (5) [52.216-22](#), Indefinite Quantity.
- (6) Any other clause allowing ordering.

#### 4.602 General.

(a) The FPDS provides a comprehensive web-based tool for agencies to report contract actions. The resulting data provides—

(1) A basis for recurring and special reports to the President, the Congress, the Government Accountability Office, Federal executive agencies, and the general public;

(2) A means of measuring and assessing the effect of Federal contracting on the Nation's economy and the extent to which small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, women-owned small business concerns, and AbilityOne nonprofit

agencies operating under [41 U.S.C. chapter 85](#), Committee for Purchase from People Who Are Blind or Severely Disabled, are sharing in Federal contracts;

(3) A means of measuring and assessing the effect of Federal contracting for promoting sustainable technologies, materials, products, and high-performance sustainable buildings. This is accomplished by collecting and reporting agency data on sustainable acquisition, including types of products purchased, the purchase costs, and the exceptions used for other than sustainable acquisition; and

(4) A means of measuring and assessing the effect of other policy and management initiatives (e.g., performance based acquisitions and competition).

(b) FPDS does not provide reports for certain acquisition information used in the award of a contract action (e.g., sub-contracting data, funding data, or accounting data).

(c) The FPDS Web site, <https://www.fpds.gov>, provides instructions for submitting data. It also provides—

(1) A complete list of departments, agencies, and other entities that submit data to the FPDS;

(2) Technical and end-user guidance;

(3) A computer-based tutorial; and

(4) Information concerning reports not generated in FPDS.

#### 4.603 Policy.

(a) In accordance with the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), all unclassified Federal award data must be publicly accessible.

(b) Executive agencies shall use FPDS to maintain publicly available information about all unclassified contract actions exceeding the micro-purchase threshold, and any modifications to those actions that change previously reported contract action report data, regardless of dollar value.

(c) Agencies awarding assisted acquisitions or direct acquisitions must report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency at FPDS. These codes represent the agency and office that has provided the predominant amount of funding for the contract action. For assisted acquisitions, the requesting agency will receive socioeconomic credit for meeting agency small business goals, where applicable. Requesting agencies shall provide the appropriate agency/bureau component code as part of the written interagency agreement between the requesting and servicing agencies (see [17.502-1\(b\)\(1\)](#)).

(d) Agencies awarding contract actions with a mix of appropriated and non-appropriated funding shall only report the full appropriated portion of the contract action in FPDS.

#### 4.604 Responsibilities.

(a) The Senior Procurement Executive in coordination with the head of the contracting activity is responsible for developing and monitoring a process to ensure timely and accurate reporting of contractual actions to FPDS.

(b)(1) The responsibility for the completion and accuracy of the individual contract action report (CAR) resides with the



contracting officer who awarded the contract action. CARs in a draft or error status in FPDS are not considered complete.

(2) The CAR must be confirmed for accuracy by the contracting officer prior to release of the contract award. The CAR must then be completed in FPDS within three business days after contract award.

(3) For any action awarded in accordance with FAR [6.302-2](#) or pursuant to any of the authorities listed at FAR subpart [18.2](#), the CAR must be completed in FPDS within 30 days after contract award.

(4) When the contracting office receives written notification that a contractor has changed its size status in accordance with the clause at [52.219-28](#), Post-Award Small Business Program Representation, the contracting officer must submit a modification contract action report to ensure that the updated size status is entered in FPDS.

(c) The chief acquisition officer of each agency required to report its contract actions must submit to the General Services Administration (GSA), in accordance with FPDS guidance, within 120 days after the end of each fiscal year, an annual certification of whether, and to what degree, agency CAR data for the preceding fiscal year is complete and accurate.

#### 4.605 Procedures.

(a) *Procurement Instrument Identifier (PIID)*. Agencies shall have in place a process that ensures that each PIID reported to FPDS is unique Governmentwide, for all solicitations, contracts, blanket purchase agreements, basic agreements, basic ordering agreements, or orders in accordance with [4.1601](#), and will remain so for at least 20 years from the date of contract award. Other pertinent PIID instructions for FPDS reporting can be found at <https://www.fpds.gov>.

(b) *Data Universal Numbering System*. The contracting officer must identify and report a Data Universal Numbering System (DUNS) number (Contractor Identification Number) for the successful offeror on a contract action. The DUNS number reported must identify the successful offeror's name and address as stated in the offer and resultant contract, and as registered in the System for Award Management database in accordance with the provision at [52.204-7](#), System for Award Management. The contracting officer must ask the offeror to provide its DUNS number by using either the provision at [52.204-6](#), Data Universal Numbering System Number, the provision at [52.204-7](#), System for Award Management, or the provision at [52.212-1](#), Instructions to Offerors—Commercial Items.

(c) *Generic DUNS number*. (1) The use of a generic DUNS number should be limited, and only used in the situations described in paragraph (c)(2) of this section. Use of a generic DUNS number does not supersede the requirements of either provisions [52.204-6](#) or [52.204-7](#) (if present in the solicitation) for the contractor to have a DUNS number assigned.

(2) Authorized generic DUNS numbers, maintained by the Integrated Award Environment (IAE) program office (<https://www.acquisition.gov>), may be used to report contracts in lieu of the contractor's actual DUNS number only for—

(i) Contract actions valued at or below \$25,000 that are awarded to a contractor that is—

(A) A student;

(B) A dependent of either a veteran, foreign service officer, or military member assigned outside the United States and its outlying areas (as defined in [2.101](#)); or

(C) Located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas and the contractor does not otherwise have a DUNS number;

(ii) Contracts valued above \$25,000 awarded to individuals located outside the United States and its outlying areas for work to be performed outside the United States and its outlying areas; or

(iii) Contracts when specific public identification of the contracted party could endanger the mission, contractor, or recipients of the acquired goods or services. The contracting officer must include a written determination in the contract file of a decision applicable to authority under this paragraph (c)(2)(iii).

(d) *American Recovery and Reinvestment Act actions*. The contracting officer, when entering data in FPDS, shall use the instructions at <https://www.fpds.gov> to identify any action funded in whole or in part by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

#### 4.606 Reporting Data.

(a) *Actions required to be reported to FPDS*. (1) As a minimum, agencies must report the following contract actions over the micro-purchase threshold, regardless of solicitation process used, and agencies must report any modification to these contract actions that change previously reported contract action data, regardless of dollar value:

(i) Definitive contracts, including purchase orders and imprest fund buys over the micro-purchase threshold awarded by a contracting officer.

(ii) Indefinite delivery vehicle (identified as an “IDV” in FPDS). Examples of IDVs include the following:

(A) Task and Delivery Order Contracts (see [Subpart 16.5](#)), including—

(1) Government-wide acquisition contracts.

(2) Multi-agency contracts.

(B) GSA Federal supply schedules.

(C) Blanket Purchase Agreements (see [13.303](#)).

(D) Basic Ordering Agreements (see [16.703](#)).

(E) Any other agreement or contract against which individual orders or purchases may be placed.

### Subpart 4.16—Unique Procurement Instrument Identifiers

#### 4.1600 Scope of subpart.

This subpart prescribes policies and procedures for assigning unique Procurement Instrument Identifiers (PIID) for each solicitation, contract, agreement, or order and related procurement instrument.

#### 4.1601 Policy.

(a) *Procurement Instrument Identifier (PIID)*. Agencies shall have in place a process that ensures that each PIID used to identify a solicitation or contract action is unique Governmentwide, and will remain so for at least 20 years from the date of contract award.

(b) Agencies must submit their proposed identifier format to the General Services Administration's Integrated Award Environment Program Office, which maintains a registry of the agency-unique identifier schemes.

(c) The PIID shall consist of alpha characters in the first positions to indicate the agency, followed by alpha-numeric characters according to agency procedures.

(d) The PIID shall be used to identify all solicitation and contract actions. The PIID shall also be used to identify solicitation and contract actions in designated support and reporting systems (e.g., Federal Procurement Data System, Past Performance Information Retrieval System), in accordance with regulations, applicable authorities, and agency policies and procedures.

(e) Agencies shall not change the PIID, unless the conditions in paragraph (f) of this section exist.

(f) If continued use of a PIID is not possible or is not in the Government's best interest solely for administrative reasons (e.g., for implementations of new agency contracting systems), the contracting officer may assign a new PIID by issuing a modification. The modification shall clearly identify both the original and the newly assigned PIID.

#### 4.1602 Identifying the PIID and supplementary PIID.

(a) *Identifying the PIID in solicitation and contract award documentation (including forms and electronic generated forms)*. Agencies shall include all PIIDs for all related procurement actions as identified in paragraphs (a)(1) through (a)(5) of this section.

(1) *Solicitation*. Identify the PIID for all solicitations. For amendments to solicitations, identify a supplementary PIID, in conjunction with the PIID for the solicitation.

(2) *Contracts and purchase orders*. Identify the PIID for contracts and purchase orders.

(3) *Delivery and task orders*. For delivery and task orders placed by an agency under a contract (e.g., indefinite delivery indefinite quantity (IDIQ) contracts, multi-agency contracts (MAC), Governmentwide acquisition contracts (GWACs), or Multiple Award Schedule (MAS) contracts), identify the PIID for the delivery and task order and the PIID for the contract.

(4) *Blanket purchase agreements and basic ordering agreements*. Identify the PIID for blanket purchase agreements issued in accordance with [13.303](#), and for basic agreements and basic ordering agreements issued in accordance with subpart [16.7](#). For blanket purchase agreements issued in accordance with subpart [8.4](#) under a MAS contract, identify the PIID for the blanket purchase agreement and the PIID for the MAS contract.

(i) *Orders*. For orders against basic ordering agreements or blanket purchase agreements issued in accordance with [13.303](#), identify the PIID for the order and the PIID for the blanket purchase agreement or basic ordering agreement.

(ii) *Orders under subpart 8.4*. For orders against a blanket purchase agreement established under a MAS contract, identify the PIID for the order, the PIID for the blanket purchase agreement, and the PIID for the MAS contract.

(5) *Modifications*. For modifications to actions described in paragraphs (a)(2) through (a)(4) of this section, and in accordance with agency procedures, identify a supplementary PIID for the modification in conjunction with the PIID for the contract, order, or agreement being modified.

(b) *Placement of the PIID on forms*. When the form (including electronic generated format) does not provide spaces or fields for the PIID or supplementary PIID required in paragraph (a) of this section, identify the PIID in accordance with agency procedures.

(c) *Additional agency specific identification information*. If agency procedures require additional identification information in solicitations, contracts, or other related procurement instruments for administrative purposes, identify it in such a manner so as to separate it clearly from the PIID.

This page intentionally left blank.



**Subpart 22.13—Equal Opportunity for Veterans**

**22.1300 Scope of subpart.**

This subpart prescribes policies and procedures for implementing the following:

- (a) The Vietnam Era Veterans’ Readjustment Assistance Act of 1972 ([38 U.S.C. 4211](#) and [4212](#)) (the Act).
- (b) The Veterans Employment Opportunities Act of 1998, Public Law 105-339.
- (c) The Jobs for Veterans Act, Public Law 107-288.
- (d) Executive Order 11701, January 24, 1973 (3 CFR 1971 - 1975 Comp., p. 752).
- (e) The regulations of the Secretary of Labor (41 CFR part 61-250, part 60-300, and part 61-300).

**22.1301 Definitions.**

As used in this subpart—

“Active duty wartime or campaign badge veteran” means a veteran who served on active duty in the U.S. military, ground, naval, or air service, during a war or in a campaign or expedition for which a campaign badge has been authorized under the laws administered by the Department of Defense.

“Armed Forces service medal veteran” means any veteran who, while serving on active duty in the U.S. military, ground, naval, or air service, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order 12985 (61 FR 1209).

“Disabled veteran” means—

- (1) A veteran of the U.S. military, ground, naval, or air service, who is entitled to compensation (or who, but for the receipt of military retired pay, would be entitled to compensation) under laws administered by the Secretary of Veterans Affairs; or
- (2) A person who was discharged or released from active duty because of a service-connected disability.

“Executive and senior management” means—

- (1) Any employee—
  - (i) Compensated on a salary basis at a rate of not less than \$455 per week (or \$380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities;
  - (ii) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;
  - (iii) Who customarily and regularly directs the work of two or more other employees; and
  - (iv) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; or

(2) Any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

“Protected veteran” means a veteran who is protected under the non-discrimination and affirmative action provisions of 38 U.S.C. 4212; specifically, a veteran who may be classified as a “disabled veteran,” “recently separated veteran,” “active duty wartime or campaign badge veteran,” or an “Armed Forces service medal veteran,” as defined by this section.

“Qualified disabled veteran” means a disabled veteran who has the ability to perform the essential functions of the employment positions with or without reasonable accommodation.

“Recently separated veteran” means any veteran during the three-year period beginning on the date of such veteran’s discharge or release from active duty in the U.S. military, ground, naval, or air service.

“United States”, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

**22.1302 Policy.**

(a) Contractors and subcontractors, when entering into contracts and subcontracts subject to the Act, are required to—

- (1) List all employment openings, with the appropriate employment service delivery system where the opening occurs, except for—
  - (i) Executive and senior management positions;
  - (ii) Positions to be filled from within the contractor’s organization; and
  - (iii) Positions lasting three days or less.
- (2) Take affirmative action to employ, advance in employment, and otherwise treat qualified individuals, including qualified disabled veterans, without discrimination based upon their status as a protected veteran, in all employment practices;
- (3) Undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit protected veterans; and
- (4) Establish a hiring benchmark and apply it to hiring of protected veterans in each establishment, on an annual basis, in the manner prescribed in the regulations of the Secretary of Labor.

(b) Except for contracts for commercial items or contracts that do not exceed the simplified acquisition threshold, contracting officers must not obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract for the procurement of personal property and nonpersonal ser-

vices (including construction) with a contractor that has not submitted the required annual form VETS-100, Federal Contractor Veterans' Employment Report (VETS-100 Report and/or VETS-100A Report), with respect to the preceding fiscal year if the contractor was subject to the reporting requirements of [38 U.S.C. 4212\(d\)](#) for that fiscal year.

### 22.1303 Applicability.

(a) The Act applies to all contracts and subcontracts for personal property and nonpersonal services (including construction) of \$100,000 or more except as waived by the Secretary of Labor.

(b) The requirements of the clause at [52.222-35](#), Equal Opportunity for Veterans, in any contract with a State or local government (or any agency, instrumentality, or subdivision) do not apply to any agency, instrumentality, or subdivision of that government that does not participate in work on or under the contract.

(c) The Act requires submission of the VETS-100A Report in all cases where the contractor or subcontractor has received an award of \$100,000 or more, except for awards to State and local governments, and foreign organizations where the workers are recruited outside of the United States.

### 22.1304 Procedures.

To verify if a proposed contractor is current with its submission of the VETS-100 and/or the VETS-100A Report, the contracting officer may—

(a) Query the Department of Labor's VETS 100 Database via the Internet at <https://webapps.dol.gov/vets100>. Contracting officer organization, name, email, telephone, and password information are required on the Contracting Officer Registration page to register for system use.

(b) Contact the VETS-100 Reporting Systems via e-mail at [verify@vets100.com](mailto:verify@vets100.com) for confirmation, if the proposed contractor represents that it has submitted the VETS-100 Report and is not listed in the database.

### 22.1305 Waivers.

(a) The Director, Office of Federal Contract Compliance Programs, Department of Labor, may waive any or all of the terms of the clause at [52.222-35](#), Equal Opportunity for Veterans, for—

- (1) Any contract if a waiver is in the national interest; or
- (2) Groups or categories of contracts if a waiver is in the national interest and it is—

(i) Impracticable to act on each request individually; and

(ii) Determined that the waiver will substantially contribute to convenience in administering the Act.

(b) The head of the agency may waive any requirement in this subpart when it is determined that the contract is essential to the national security, and that its award without complying

with such requirements is necessary to the national security. Upon making such a determination, the head of the agency must notify the Deputy Assistant Secretary of Labor in writing within 30 days.

(c) The contracting officer must submit requests for waivers in accordance with agency procedures.

(d) The Deputy Assistant Secretary of Labor may withdraw an approved waiver for a specific contract or group of contracts to be awarded, when in the Deputy's judgment such action is necessary to achieve the purposes of the Act. The withdrawal does not apply to awarded contracts. For procurements entered into by sealed bidding, such withdrawal does not apply unless the withdrawal is made more than 10 calendar days before the date set for the opening of bids.

### 22.1306 Department of Labor notices and reports.

(a) The contracting officer must furnish to the contractor appropriate notices for posting when they are prescribed by the Deputy Assistant Secretary of Labor (see <http://www.dol.gov/ofccp/regs/compliance/posters/ofccpost.htm>).

(b) The Act requires contractors and subcontractors to submit a report at least annually to the Secretary of Labor regarding employment of disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans, unless all of the terms of the clause at [52.222-35](#), Equal Opportunity for Veterans, have been waived (see [22.1305](#)). The contractor and subcontractor must use form VETS-100A, Federal Contractor Veterans' Employment Report, to submit the required reports (see <https://webapps.dol.gov/vets100>).

### 22.1307 Collective bargaining agreements.

If performance under the clause at [52.222-35](#), Equal Opportunity for Veterans, may necessitate a revision of a collective bargaining agreement, the contracting officer must advise the affected labor unions that the Department of Labor will give them appropriate opportunity to present their views. However, neither the contracting officer nor any representative of the contracting officer may discuss with the contractor or any labor representative any aspect of the collective bargaining agreement.

### 22.1308 Complaint procedures.

Following agency procedures, the contracting office must forward any complaints received about the administration of the Act to the Veterans' Employment and Training Service of the Department of Labor, or to the Director, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., Washington, DC 20210, or to any OFCCP regional, district, or area office or through the local Veterans' Employment Representative or designee, at the local State employment office. The Director, Office of Federal Contract

Compliance Programs, is responsible for investigating complaints.

**22.1309 Actions because of noncompliance.**

The contracting officer must take necessary action as soon as possible upon notification by the appropriate agency official to implement any sanctions imposed on a contractor by the Department of Labor for violations of the clause at [52.222-35](#), Equal Opportunity for Veterans. These sanctions (see 41 CFR 60-300.66) may include—

- (a) Withholding progress payments;
- (b) Termination or suspension of the contract; or
- (c) Debarment of the contractor.

**22.1310 Solicitation provision and contract clauses.**

(a)(1) Insert the clause at [52.222-35](#), Equal Opportunity for Veterans, in solicitations and contracts if the expected value is \$100,000 or more, except when—

(i) Work is performed outside the United States by employees recruited outside the United States; or

(ii) The Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, has waived, in accordance with [22.1305\(a\)](#), or the head of the agency has waived, in accordance with [22.1305\(b\)](#), all of the terms of the clause.

(2) If the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, or the head of the agency waives one or more (but not all) of the terms of the clause, use the basic clause with its Alternate I.

(b) Insert the clause at [52.222-37](#), Employment Reports on Veterans, in solicitations and contracts containing the clause at [52.222-35](#), Equal Opportunity for Veterans.

(c) Insert the provision at [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements, in solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

This page intentionally left blank.

## Subpart 22.14—Employment of Workers with Disabilities

### 22.1400 Scope of subpart.

This subpart prescribes policies and procedures for implementing section 503 of the Rehabilitation Act of 1973, as amended ([29 U.S.C. 793](#)) (the Act); Executive Order 11758, January 15, 1974; and the regulations of the Secretary of Labor (41 CFR Part 60-741). In this subpart, the terms “contract” and “contractor” include “subcontract” and “subcontractor.”

### 22.1401 Policy.

Contractors and subcontractors, when entering into contracts and subcontracts subject to the Act, are required to—

- (a) Take affirmative action to employ, and advance in employment, qualified individuals with disabilities, and to otherwise treat qualified individuals without discrimination based on their physical or mental disability;
- (b) Undertake appropriate outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities; and
- (c) Compare the utilization of individuals with disabilities in their workforces to the utilization goal, as prescribed in the regulations of the Secretary of Labor, on an annual basis.

### 22.1402 Applicability.

(a) Section 503 of the Act applies to all Government contracts in excess of \$15,000 for supplies and services (including construction) except as waived by the Secretary of Labor. The clause at [52.222-36](#), Equal Opportunity for Workers with Disabilities, implements the Act.

(b) The requirements of the clause at [52.222-36](#), Equal Opportunity for Workers with Disabilities, in any contract with a State or local government (or any agency, instrumentality, or subdivision) shall not apply to any agency, instrumentality, or subdivision of that government that does not participate in work on or under the contract.

### 22.1403 Waivers.

(a) The Director of the Office of Federal Contract Compliance Programs of the U.S. Department of Labor (Director of OFCCP), may waive the application of any or all of the terms of the clause at [52.222-36](#), Equal Opportunity for Workers with Disabilities, for—

- (1) Any contract if a waiver is deemed to be in the national interest; or
- (2) Groups or categories of contracts if a waiver is in the national interest and it is—
  - (i) Impracticable to act on each request individually; and
  - (ii) Determined that the waiver will substantially contribute to convenience in administering the Act.

(b) The head of an agency may waive any requirement in this subpart when it is determined that the contract is essential to the national security, and that its award without complying with such requirements is necessary to the national security. Upon making such a determination, the head of the agency shall notify the Director of OFCCP in writing within 30 days.

(c) The contracting officer shall submit requests for waivers in accordance with agency procedures.

(d) A waiver granted for a particular class of contracts may be withdrawn for any contract within that class whenever considered necessary by the Director of OFCCP to achieve the purposes of the Act. The withdrawal shall not apply to contracts awarded before the withdrawal. The withdrawal shall not apply to solicitations under any means of sealed bidding unless it is made more than 10 days before the date set for bid opening.

### 22.1404 Department of Labor notices.

The contracting officer shall furnish to the contractor appropriate notices that state the contractor’s obligations and the rights of individuals with disabilities. The contracting officer may obtain these notices from the Office of Federal Contract Compliance Programs (OFCCP) regional office.

### 22.1405 Collective bargaining agreements.

If performance under the clause at [52.222-36](#), Equal Opportunity for Workers with Disabilities, may necessitate a revision of a collective bargaining agreement, the contracting officer shall advise the affected labor unions that the Department of Labor will give them appropriate opportunity to present their views. However, neither the contracting officer nor any representative of the contracting officer shall discuss with the contractor or any labor representative any aspect of the collective bargaining agreement.

### 22.1406 Complaint procedures.

(a) Following agency procedures, the contracting office shall forward any complaints received about the administration of the Act to—

- (1) Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; or
- (2) Any OFCCP regional or area office.

(b) The OFCCP shall institute investigation of each complaint and shall be responsible for developing a complete case record.

### 22.1407 Actions because of noncompliance.

The contracting officer shall take necessary action, as soon as possible upon notification by the appropriate agency official, to implement any sanctions imposed on a contractor by the Department of Labor for violations of the clause at

[52.222-36](#), Equal Opportunity for Workers with Disabilities. These sanctions (see 41 CFR 60-741.66) may include—

- (a) Withholding from payments otherwise due;
- (b) Termination or suspension of the contract; or
- (c) Debarment of the contractor.

**22.1408 Contract clause.**

(a) Insert the clause at [52.222-36](#), Equal Opportunity for Workers with Disabilities, in solicitations and contracts that exceed or are expected to exceed \$15,000, except when—

(1) Both the performance of the work and the recruitment of workers will occur outside the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island; or

(2) The Director of OFCCP or agency head has waived, in accordance with [22.1403\(a\)](#) or [22.1403\(b\)](#) all the terms of the clause.

(b) If the Director of OFCCP or agency head waives one or more (but not all) of the terms of the clause in accordance with [22.1403\(a\)](#) or [22.1403\(b\)](#), use the basic clause with its Alternate I.



from work) is compensation for personal services and is unallowable as stated in [31.205-6\(m\)\(2\)](#).

### 31.205-47 Costs related to legal and other proceedings.

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

“Costs” include, but are not limited to, administrative and clerical expenses; the costs of legal services, whether performed by in-house or private counsel; the costs of the services of accountants, consultants, or others retained by the contractor to assist it; costs of employees, officers, and directors; and any similar costs incurred before, during, and after commencement of a judicial or administrative proceeding which bears a direct relationship to the proceeding.

“Fraud”, means—

(1) Acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents;

(2) Acts which constitute a cause for debarment or suspension under [9.406-2\(a\)](#) and [9.407-2\(a\)](#); and

(3) Acts which violate the False Claims Act, [31 U.S.C., sections 3729-3731](#), or [41 U.S.C. chapter 87](#), Kickbacks.

“Penalty,” does not include restitution, reimbursement, or compensatory damages.

“Proceeding,” includes an investigation.

(b) In accordance with [41 U.S.C. 4310](#) and [10 U.S.C. 2324\(k\)](#), costs incurred in connection with any proceeding brought by a Federal, State, local, or foreign government, or by a contractor or subcontractor employee submitting a whistleblower complaint of reprisal in accordance with [41 U.S.C. 4712](#) or [10 U.S.C. 2409](#), for violation of, or a failure to comply with, law or regulation by the contractor (including its agents or employees), or costs incurred in connection with any proceeding brought by a third party in the name of the United States under the False Claims Act, [31 U.S.C. 3730](#), are unallowable if the result is—

(1) In a criminal proceeding, a conviction;

(2) In a civil or administrative proceeding, either a finding of contractor liability where the proceeding involves an allegation of fraud or similar misconduct; or imposition of a monetary penalty, or an order issued by the agency head to the contractor or subcontractor to take corrective action under [41 U.S.C. 4712](#) or [10 U.S.C. 2409](#), where the proceeding does not involve an allegation of fraud or similar misconduct;

(3) A final decision by an appropriate official of an executive agency to—

(i) Debar or suspend the contractor;

(ii) Rescind or void a contract; or

(iii) Terminate a contract for default by reason of a violation or failure to comply with a law or regulation.

(4) Disposition of the matter by consent or compromise if the proceeding could have led to any of the outcomes listed in paragraphs (b)(1) through (3) of this subsection (but see paragraphs (c) and (d) of this subsection); or

(5) Not covered by paragraphs (b)(1) through (4) of this subsection, but where the underlying alleged contractor misconduct was the same as that which led to a different proceed-

ing whose costs are unallowable by reason of paragraphs (b)(1) through (4) of this subsection.

(c)(1) To the extent they are not otherwise unallowable, costs incurred in connection with any proceeding under paragraph (b) of this subsection commenced by the United States that is resolved by consent or compromise pursuant to an agreement entered into between the contractor and the United States, and which are unallowable solely because of paragraph (b) of this subsection, may be allowed to the extent specifically provided in such agreement

(2)(i) In the event of a settlement of any proceeding brought by a third party under the False Claims Act in which the United States did not intervene, reasonable costs incurred by the contractor in connection with such a proceeding that are not otherwise unallowable by regulation or by separate agreement with the United States may be allowed if the contracting officer, in consultation with his or her legal advisor, determines that there was very little likelihood that the third party would have been successful on the merits.

(ii) In the event of disposition by consent or compromise of a proceeding brought by a whistleblower for alleged reprisal in accordance with [41 U.S.C. 4712](#) or [10 U.S.C. 2409](#), reasonable costs incurred by a contractor or subcontractor in connection with such a proceeding that are not otherwise unallowable by regulation or by agreement with the United States may be allowed if the contracting officer, in consultation with his or her legal advisor, determined that there was very little likelihood that the claimant would have been successful on the merits.

(d) To the extent that they are not otherwise unallowable, costs incurred in connection with any proceeding under paragraph (b) of this subsection commenced by a State, local, or foreign government may be allowable when the contracting officer (or other official specified in agency procedures) determines, that the costs were incurred either:

(1) As a direct result of a specific term or condition of a Federal contract; or

(2) As a result of compliance with specific written direction of the cognizant contracting officer.

(e) Costs incurred in connection with proceedings described in paragraph (b) of this subsection, but which are not made unallowable by that paragraph, may be allowable to the extent that:

(1) The costs are reasonable in relation to the activities required to deal with the proceeding and the underlying cause of action;

(2) The costs are not otherwise recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and

(3) The percentage of costs allowed does not exceed the percentage determined to be appropriate considering the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. Such percentage shall not exceed

80 percent. Agreements reached under paragraph (c) of this subsection shall be subject to this limitation. If, however, an agreement described in paragraph (c)(1) of this subsection explicitly states the amount of otherwise allowable incurred legal fees and limits the allowable recovery to 80 percent or less of the stated legal fees, no additional limitation need be applied. The amount of reimbursement allowed for legal costs in connection with any proceeding described in paragraph (c)(2) of this subsection shall be determined by the cognizant contracting officer, but shall not exceed 80 percent of otherwise allowable legal costs incurred.

(f) Costs not covered elsewhere in this subsection are unallowable if incurred in connection with:

(1) Defense against Federal Government claims or appeals or the prosecution of claims or appeals against the Federal Government (see [2.101](#)).

(2) Organization, reorganization, (including mergers and acquisitions) or resisting mergers and acquisitions (see also [31.205-27](#)).

(3) Defense of antitrust suits.

(4) Defense of suits brought by employees or ex-employees of the contractor under section 2 of the Major Fraud Act of 1988 where the contractor was found liable or settled.

(5) Costs of legal, accounting, and consultant services and directly associated costs incurred in connection with the defense or prosecution of lawsuits or appeals between contractors arising from either—

(i) An agreement or contract concerning a teaming arrangement, a joint venture, or similar arrangement of shared interest; or

(ii) Dual sourcing, coproduction, or similar programs, are unallowable, except when—

(A) Incurred as a result of compliance with specific terms and conditions of the contract or written instructions from the contracting officer, or

(B) When agreed to in writing by the contracting officer.

(6) Patent infringement litigation, unless otherwise provided for in the contract.

(7) Representation of, or assistance to, individuals, groups, or legal entities which the contractor is not legally bound to provide, arising from an action where the participant was convicted of violation of a law or regulation or was found liable in a civil or administrative proceeding.

(8) Protests of Federal Government solicitations or contract awards, or the defense against protests of such solicitations or contract awards, unless the costs of defending against a protest are incurred pursuant to a written request from the cognizant contracting officer.

(g) Costs which may be unallowable under [31.205-47](#), including directly associated costs, shall be segregated and

accounted for by the contractor separately. During the pendency of any proceeding covered by paragraph (b) and paragraphs (f)(4) and (f)(7) of this subsection, the contracting officer shall generally withhold payment of such costs. However, if in the best interests of the Government, the contracting officer may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement by the contractor to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

### **31.205-48 Research and development costs.**

“Research and development,” as used in this subsection, means the type of technical effort described in [31.205-18](#) but sponsored by a grant or required in the performance of a contract. When costs are incurred in excess of either the price of a contract or amount of a grant for research and development effort, the excess is unallowable under any other Government contract.

### **31.205-49 Goodwill.**

Goodwill, an unidentifiable intangible asset, originates under the purchase method of accounting for a business combination when the price paid by the acquiring company exceeds the sum of the identifiable individual assets acquired less liabilities assumed, based upon their fair values. The excess is commonly referred to as goodwill. Goodwill may arise from the acquisition of a company as a whole or a portion thereof. Any costs for amortization, expensing, write-off, or write-down of goodwill (however represented) are unallowable.

### **31.205-50 [Reserved]**

### **31.205-51 Costs of alcoholic beverages.**

Costs of alcoholic beverages are unallowable.

### **31.205-52 Asset valuations resulting from business combinations.**

(a) For tangible capital assets, when the purchase method of accounting for a business combination is used, whether or not the contract or subcontract is subject to CAS, the allowable depreciation and cost of money shall be based on the capitalized asset values measured and assigned in accordance with 48 CFR 9904.404-50(d), if allocable, reasonable, and not otherwise unallowable.

(b) For intangible capital assets, when the purchase method of accounting for a business combination is used, allowable amortization and cost of money shall be limited to the total of the amounts that would have been allowed had the combination not taken place.



**32.006-2 Definition.**

“Remedy coordination official,” as used in this section, means the person or entity in the agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities. (See [10 U.S.C. 2307\(i\)\(10\)](#) and [41 U.S.C. 4506\(a\)](#).)

**32.006-3 Responsibilities.**

(a) Agencies shall establish appropriate procedures to implement the policies and procedures of this section.

(b) Government personnel shall report suspected fraud related to advance, partial, or progress payments in accordance with agency regulations.

**32.006-4 Procedures.**

(a) In any case in which an agency’s remedy coordination official finds substantial evidence that a contractor’s request for advance, partial, or progress payments under a contract awarded by that agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to the contractor. The remedy coordination official shall submit to the agency head a written report setting forth the remedy coordination official’s findings that support each recommendation.

(b) Upon receiving a recommendation from the remedy coordination official under paragraph (a) of this subsection, the agency head shall determine whether substantial evidence exists that the request for payment under a contract is based on fraud.

(c) If the agency head determines that substantial evidence exists, the agency head may reduce or suspend further payments to the contractor under the affected contract(s). Such reduction or suspension shall be reasonably commensurate with the anticipated loss to the Government resulting from the fraud.

(d) In determining whether to reduce or suspend further payment(s), as a minimum, the agency head shall consider—

(1) A recommendation from investigating officers that disclosure of the allegations of fraud to the contractor may compromise an ongoing investigation;

(2) The anticipated loss to the Government as a result of the fraud;

(3) The contractor’s overall financial condition and ability to continue performance if payments are reduced or suspended;

(4) The contractor’s essentiality to the national defense, or to the execution of the agency’s official business; and

(5) Assessment of all documentation concerning the alleged fraud, including documentation submitted by the contractor in its response to the notice required by paragraph (e) of this subsection.

(e) Before making a decision to reduce or suspend further payments, the agency head shall, in accordance with agency procedures—

(1) Notify the contractor in writing of the action proposed by the remedy coordination official and the reasons therefor (such notice must be sufficiently specific to permit the contractor to collect and present evidence addressing the aforesaid reasons); and

(2) Provide the contractor an opportunity to submit information within a reasonable time, in response to the action proposed by the remedy coordination official.

(f) When more than one agency has contracts affected by the fraud, the agencies shall consider designating one agency as the lead agency for making the determination and decision.

(g) The agency shall retain in its files the written justification for each—

(1) Decision of the agency head whether to reduce or suspend further payments; and

(2) Recommendation received by an agency head in connection with such decision.

(h) Not later than 180 calendar days after the date of the reduction or suspension action, the remedy coordination official shall—

(1) Review the agency head’s determination on which the reduction or suspension decision is based; and

(2) Transmit a recommendation to the agency head as to whether the reduction or suspension should continue.

**32.006-5 Reporting.**

(a) In accordance with [41 U.S.C. 4506\(h\)](#), the head of an agency, other than the Department of Defense, shall prepare a report for each fiscal year in which a recommendation has been received pursuant to [32.006-4\(a\)](#). Reports within the Department of Defense shall be prepared in accordance with [10 U.S.C. 2307\(i\)\(7\)](#).

(b) In accordance with [41 U.S.C. 4506\(h\)](#) and [10 U.S.C. 2307\(i\)\(7\)](#), each report shall contain—

(1) Each recommendation made by the remedy coordination official;

(2) The actions taken on the recommendation(s), with reasons for such actions; and

(3) An assessment of the effects of each action on the Government.

**32.007 Contract financing payments.**

(a)(1) Unless otherwise prescribed in agency policies and procedures or otherwise specified in paragraph (b) of this section, the due date for making contract financing payments by the designated payment office is the 30th day after the designated billing office receives a proper contract financing request.

(2) If an audit or other review of a specific financing request is required to ensure compliance with the terms and

conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(3) Agency heads may prescribe shorter periods for payment based on contract pricing or administrative considerations. For example, a shorter period may be justified by an agency if the nature and extent of contract financing arrangements are integrated with agency contract pricing policies.

(4) Agency heads must not prescribe a period shorter than 7 days or longer than 30 days.

(b) For advance payments, loans, or other arrangements that do not involve recurrent submission of contract financing requests, the designated payment office will make payment in accordance with the applicable contract financing terms or as directed by the contracting officer.

(c) A proper contract financing request must comply with the terms and conditions specified by the contract. The contractor must correct any defects in requests submitted in the manner specified in the contract or as directed by the contracting officer.

(d) The designated billing office and designated payment office must annotate each contract financing request with the date their respective offices received the request.

(e) The Government will not pay an interest penalty to the contractor as a result of delayed contract financing payments.

### 32.008 Notification of overpayment.

If the contractor notifies the contracting officer of a duplicate payment or that the Government has otherwise overpaid, the contracting officer shall follow the procedures at [32.604](#).

### 32.009 Providing accelerated payments to small business subcontractors.

#### 32.009-1 General.

Pursuant to the policy provided by OMB Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors (and as extended by OMB Memorandum M-13-15 and M-14-10, both titled, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors), agencies shall take measures to ensure that prime contractors pay small business subcontractors on an accelerated timetable to the maximum extent practicable, and upon receipt of accelerated payments from the Government. This acceleration does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.

#### 32.009-2 Contract clause.

Insert clause [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors, in all solicitations and contracts.

## Subpart 32.1—Non-Commercial Item Purchase Financing

### 32.100 Scope of subpart.

This subpart provides policies and procedures applicable to contract financing and payment for any purchases other than purchases of commercial items in accordance with [Part 12](#).

### 32.101 Authority.

The basic authority for the contract financing described in this part is contained in [41 U.S.C. chapter 45](#), Contract Financing, [10 U.S.C. 2307](#), and Title III of the Defense Production Act of 1950 ([50 U.S.C. App. 2091](#)).

### 32.102 Description of contract financing methods.

(a) Advance payments are advances of money by the Government to a prime contractor before, in anticipation of, and for the purpose of complete performance under one or more contracts. They are expected to be liquidated from payments due to the contractor incident to performance of the contracts. Since they are not measured by performance, they differ from partial, progress, or other payments based on the performance or partial performance of a contract. Advance payments may be made to prime contractors for the purpose of making advances to subcontractors.

(b) Progress payments based on costs are made on the basis of costs incurred by the contractor as work progresses under the contract. This form of contract financing does not include—

- (1) Payments based on the percentage or stage of completion accomplished;
- (2) Payments for partial deliveries accepted by the Government;
- (3) Partial payments for a contract termination proposal; or
- (4) Performance-based payments.

(c) Loan guarantees are made by Federal Reserve banks, on behalf of designated guaranteeing agencies, to enable contractors to obtain financing from private sources under contracts for the acquisition of supplies or services for the national defense.

(d) Payments for accepted supplies and services that are only a part of the contract requirements (*i.e.*, partial deliveries) are authorized under [41 U.S.C. chapter 45](#) and [10 U.S.C. 2307](#). In accordance with 5 CFR 1315.4(k), agencies must pay for partial delivery of supplies or partial performance of services unless specifically prohibited by the contract. Although payments for partial deliveries generally are treated as a method of payment and not as a method of con-

- 
- |           |                                                                                                                         |           |                                                                                                                    |
|-----------|-------------------------------------------------------------------------------------------------------------------------|-----------|--------------------------------------------------------------------------------------------------------------------|
| 52.215-20 | Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data.                     | 52.217-4  | Evaluation of Options Exercised at Time of Contract Award.                                                         |
| 52.215-21 | Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications.       | 52.217-5  | Evaluation of Options.                                                                                             |
| 52.215-22 | Limitations on Pass-Through Charges—Identification of Subcontract Effort.                                               | 52.217-6  | Option for Increased Quantity.                                                                                     |
| 52.215-23 | Limitations on Pass-Through Charges.                                                                                    | 52.217-7  | Option for Increased Quantity—Separately Priced Line Item.                                                         |
| 52.216-1  | Type of Contract.                                                                                                       | 52.217-8  | Option to Extend Services.                                                                                         |
| 52.216-2  | Economic Price Adjustment—Standard Supplies.                                                                            | 52.217-9  | Option to Extend the Term of the Contract.                                                                         |
| 52.216-3  | Economic Price Adjustment—Semistandard Supplies.                                                                        | 52.218    | [Reserved]                                                                                                         |
| 52.216-4  | Economic Price Adjustment—Labor and Material.                                                                           | 52.219-1  | Small Business Program Representations.                                                                            |
| 52.216-5  | Price Redetermination—Prospective.                                                                                      | 52.219-2  | Equal Low Bids.                                                                                                    |
| 52.216-6  | Price Redetermination—Retroactive.                                                                                      | 52.219-3  | Notice of HUBZone Set-Aside or Sole Source Award.                                                                  |
| 52.216-7  | Allowable Cost and Payment.                                                                                             | 52.219-4  | Notice of Price Evaluation Preference for HUBZone Small Business Concerns.                                         |
| 52.216-8  | Fixed Fee.                                                                                                              | 52.219-5  | [Reserved]                                                                                                         |
| 52.216-9  | Fixed Fee—Construction.                                                                                                 | 52.219-6  | Notice of Total Small Business Set-Aside.                                                                          |
| 52.216-10 | Incentive Fee.                                                                                                          | 52.219-7  | Notice of Partial Small Business Set-Aside.                                                                        |
| 52.216-11 | Cost Contract—No Fee.                                                                                                   | 52.219-8  | Utilization of Small Business Concerns.                                                                            |
| 52.216-12 | Cost-Sharing Contract—No Fee.                                                                                           | 52.219-9  | Small Business Subcontracting Plan.                                                                                |
| 52.216-13 | [Reserved]                                                                                                              | 52.219-10 | Incentive Subcontracting Program.                                                                                  |
| 52.216-14 | [Reserved]                                                                                                              | 52.219-11 | Special 8(a) Contract Conditions.                                                                                  |
| 52.216-15 | Predetermined Indirect Cost Rates.                                                                                      | 52.219-12 | Special 8(a) Subcontract Conditions.                                                                               |
| 52.216-16 | Incentive Price Revision—Firm Target.                                                                                   | 52.219-13 | Notice of Set-Aside of Orders.                                                                                     |
| 52.216-17 | Incentive Price Revision—Successive Targets.                                                                            | 52.219-14 | Limitations on Subcontracting.                                                                                     |
| 52.216-18 | Ordering.                                                                                                               | 52.219-15 | [Reserved]                                                                                                         |
| 52.216-19 | Order Limitations.                                                                                                      | 52.219-16 | Liquidated Damages—Subcontracting Plan.                                                                            |
| 52.216-20 | Definite Quantity.                                                                                                      | 52.219-17 | Section 8(a) Award.                                                                                                |
| 52.216-21 | Requirements.                                                                                                           | 52.219-18 | Notification of Competition Limited to Eligible 8(a) Concerns.                                                     |
| 52.216-22 | Indefinite Quantity.                                                                                                    | 52.219-19 | [Reserved]                                                                                                         |
| 52.216-23 | Execution and Commencement of Work.                                                                                     | 52.219-20 | [Reserved]                                                                                                         |
| 52.216-24 | Limitation of Government Liability.                                                                                     | 52.219-21 | [Reserved]                                                                                                         |
| 52.216-25 | Contract Definitization.                                                                                                | 52.219-22 | Small Disadvantaged Business Status.                                                                               |
| 52.216-26 | Payments of Allowable Costs Before Definitization.                                                                      | 52.219-23 | Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.                                   |
| 52.216-27 | Single or Multiple Awards.                                                                                              | 52.219-24 | Small Disadvantaged Business Participation Program—Targets.                                                        |
| 52.216-28 | Multiple Awards for Advisory and Assistance Services.                                                                   | 52.219-25 | Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.                             |
| 52.216-29 | Time-and-Materials/Labor-Hour Proposal Requirements—Non-Commercial Item Acquisition With Adequate Price Competition.    | 52.219-26 | Small Disadvantaged Business Participation Program—Incentive Subcontracting.                                       |
| 52.216-30 | Time-and-Materials/Labor-Hour Proposal Requirements—Non-Commercial Item Acquisition Without Adequate Price Competition. | 52.219-27 | Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.                                                 |
| 52.216-31 | Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition.                                        | 52.219-28 | Post-Award Small Business Program Rerepresentation.                                                                |
| 52.217-1  | [Reserved]                                                                                                              | 52.219-29 | Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business Concerns.                            |
| 52.217-2  | Cancellation Under Multi-year Contracts.                                                                                | 52.219-30 | Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program. |
| 52.217-3  | Evaluation Exclusive of Options.                                                                                        | 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.
  - 52.223-1 Biobased Product Certification.
  - 52.223-2 Affirmative Procurement of Biobased Products Under Service and Construction Contracts.
  - 52.223-3 Hazardous Material Identification and Material Safety Data.
  - 52.223-4 Recovered Material Certification.
  - 52.223-5 Pollution Prevention and Right-to-Know Information.
  - 52.223-6 Drug-Free Workplace.
  - 52.223-7 Notice of Radioactive Materials.
  - 52.223-8 [Reserved]
  - 52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Items.
  - 52.223-10 Waste Reduction Program.
  - 52.223-11 Ozone-Depleting Substances.
  - 52.223-12 Refrigeration Equipment and Air Conditioners.
  - 52.223-13 Acquisition of EPEAT®-Registered Imaging Equipment.
  - 52.223-14 Acquisition of EPEAT®-Registered Televisions.



(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 (JUL 2014)**

(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) [52.222-50](#), Combating Trafficking in Persons (FEB 2009) ([22 U.S.C. 7104\(g\)](#)).

— Alternate I (AUG 2007) of [52.222-50](#) ([22 U.S.C. 7104\(g\)](#)).

(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 (APR 2010) ([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 (JUL 2013) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

— (5) [Reserved].

— (6) [52.204-14](#), Service Contract Reporting Requirements (JAN 2014) (PUB. L. 111-117, section 743 OF DIV. C).

— (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (JAN 2014) (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. (AUG 2013) ([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) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (MAY 2012) (section 738 of Division C of Pub. L. 112-74, section 740 of Division C of

Pub. L. 111-117, section 743 of Division D of Pub. L. 111-8, and section 745 of Division D of Pub. L. 110-161).

— (11) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (NOV 2011) ([15 U.S.C. 657a](#)).

— (12) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JAN 2011) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](#)).

— (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 (MAY 2014) ([15 U.S.C. 637\(d\)\(2\)](#)) and (3)).

— (17)(i) [52.219-9](#), Small Business Subcontracting Plan (JUL 2013) ([15 U.S.C. 637\(d\)\(4\)](#)).

— (ii) Alternate I (OCT 2001) of [52.219-9](#).

— (iii) Alternate II (OCT 2001) of [52.219-9](#).

— (iv) Alternate III (JUL 2010) 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)(i) [52.219-23](#), Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) ([10 U.S.C. 2323](#)) (if the offeror elects to waive the adjustment, it shall so indicate in its offer).

— (ii) Alternate I (JUNE 2003) of [52.219-23](#).

— (22) [52.219-25](#), Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (JUL 2013) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).

— (23) [52.219-26](#), Small Disadvantaged Business Participation Program— Incentive Subcontracting (OCT 2000) (Pub. L. 103-355, section 7102, and [10 U.S.C. 2323](#)).

— (24) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (NOV 2011) ([15 U.S.C. 657 f](#)).

— (25) [52.219-28](#), Post Award Small Business Program Rerepresentation (JUL 2013) ([15 U.S.C. 632\(a\)\(2\)](#)).

— (26) [52.219-29](#), Notice of Set-Aside for Economically Disadvantaged Women-Owned Small Business (EDWOSB) Concerns (JUL 2013) ([15 U.S.C. 637\(m\)](#)).

— (27) [52.219-30](#), Notice of Set-Aside for Women-Owned Small Business (WOSB) Concerns Eligible Under the WOSB Program (JUL 2013) ([15 U.S.C. 637\(m\)](#)).

— (28) [52.222-3](#), Convict Labor (JUNE 2003) (E.O. 11755).

— (29) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (JAN 2014) (E.O. 13126).

— (30) [52.222-21](#), Prohibition of Segregated Facilities (FEB 1999).

— (31) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

— (32) [52.222-35](#), Equal Opportunity for Veterans (JUL 2014)([38 U.S.C. 4212](#)).

— (33) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUL 2014) ([29 U.S.C. 793](#)).

— (34) [52.222-37](#), Employment Reports on Veterans (JUL 2014) (38 U.S.C. 4212).

— (35) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

— (36) [52.222-54](#), Employment Eligibility Verification (AUG 2013). (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](#).)

— (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)(i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O. 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-13](#).

— (39)(i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (E.O. 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-14](#).

— (40) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)).

— (41)(i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (JUN 2014) (E.O. 13423 and 13514).

— (ii) Alternate I (JUN 2014) of [52.223-16](#).

— (42) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).

— (43) [52.225-1](#), Buy American—Supplies (MAY 2014) ([41 U.S.C. chapter 83](#)).

— (44)(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](#).

— (45) [52.225-5](#), Trade Agreements (NOV 2013) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301](#) note).

— (46) [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).

— (47) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (JUL 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

— (48) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (NOV 2007) ([42 U.S.C. 5150](#)).

— (49) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (NOV 2007) ([42 U.S.C. 5150](#)).

— (50) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (FEB 2002) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

— (51) [52.232-30](#), Installment Payments for Commercial Items (OCT 1995) ([41 U.S.C. 4505](#), [10 U.S.C. 2307\(f\)](#)).

— (52) [52.232-33](#), Payment by Electronic Funds Transfer—System for Award Management (JUL 2013) ([31 U.S.C. 3332](#)).

— (53) [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management (JUL 2013) ([31 U.S.C. 3332](#)).

— (54) [52.232-36](#), Payment by Third Party (MAY 2014) ([31 U.S.C. 3332](#)).

— (55) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ([5 U.S.C. 552a](#)).

— (56)(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) [52.222-41](#), Service Contract Labor Standards (May 2014) ([41 U.S.C. chapter 67](#)).

— (2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (MAY 2014) ([29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

— (3) [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](#)).

— (4) [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](#)).

— (5) [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](#)).

— (6) [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](#)).

— (7) [52.222-17](#), Nondisplacement of Qualified Workers (MAY 2014) (E.O.13495).

— (8) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (MAY 2014) ([42 U.S.C. 1792](#)).

— (9) [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 (APR 2010) ([41 U.S.C. 3509](#)).

(ii) [52.219-8](#), Utilization of Small Business Concerns (MAY 2014) ([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 \$650,000 (\$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) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

(v) [52.222-35](#), Equal Opportunity for Veterans (JUL 2014) ([38 U.S.C. 4212](#)).



(vi) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUL 2014) ([29 U.S.C. 793](#)).

(vii) [52.222-37](#), Employment Reports on Veterans (JUL 2014) ([38 U.S.C. 4212](#)).

(viii) [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](#).

(ix) [52.222-41](#), Service Contract Labor Standards (MAY 2014) ([41 U.S.C. chapter 67](#)).

(x) [52.222-50](#), Combating Trafficking in Persons (FEB 2009) ([22 U.S.C. 7104\(g\)](#)).

Alternate I (AUG 2007) of [52.222-50](#) ([22 U.S.C. 7104\(g\)](#)).

(xi) [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](#)).

(xii) [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](#)).

(xiii) [52.222-54](#), Employment Eligibility Verification (AUG 2013).

(xiv) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (JUL 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

(xv) [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](#).

(xvi) [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 (Jul 2014).* 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 (Apr 2010) ([41 U.S.C. 3509](#)).

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5).

(C) [52.219-8](#), Utilization of Small Business Concerns (MAY 2014) ([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 \$650,000 (\$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) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(E) [52.222-35](#), Equal Opportunity for Veterans (Jul 2014) ([38 U.S.C. 4212](#)).

(F) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jul 2014) ([29 U.S.C. 793](#)).

(G) [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](#).

(H) [52.222-41](#), Service Contract Labor Standards (MAY 2014) ([41 U.S.C. chapter 67](#)).

(I) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

(J) [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](#)).

(K) [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](#)).

(L) [52.222-54](#), Employment Eligibility Verification (Aug 2013).

(M) [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](#).

(N) [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) (JUL 2014)

(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 (JUNE 2003) (E.O. 11755).

(ii) [52.222-21](#), Prohibition of Segregated Facilities (FEB 1999) (E.O. 11246).

(iii) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

(iv) [52.222-50](#), Combating Trafficking in Persons (FEB 2009) ([22 U.S.C. 7104\(g\)](#)).

(v) [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).

(vi) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(vii) [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 (JUL 2014).

(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 (JUL 2013) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)) (Applies to contracts valued at \$25,000 or more).

(ii) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (JAN 2014) (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 (JUL 2014) ([38 U.S.C. 4212](#)) (applies to contracts of \$100,000 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 (JUL 2014) ([38 U.S.C. 4212](#)) (applies to contracts of \$100,000 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) [52.223-5](#), Pollution Prevention and Right-to-Know Information (MAY 2011) (E.O. 13423) (Applies to services performed on Federal facilities).



(ix) [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.)

(x) [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).

(xi) [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.)

(xii) [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.)

(xiii) [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.)

(xiv) [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) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (AUG 2013) (Applies to contracts over \$30,000).

(ii) [52.211-17](#), Delivery of Excess Quantities (SEPT 1989) (Applies to fixed-price supplies).

(iii) [52.247-29](#), F.o.b. Origin (FEB 2006) (Applies to supplies if delivery is f.o.b. origin).

(iv) [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-

results in a combined increase. If the difference computed results in a combined decrease, the contract unit price shall be decreased by that amount if the Contractor provides notification as provided in paragraph (e) of this clause.

(2) *Computation for contract unit price containing multiple craft hours for schedule of indefinite-quantity work.* For each labor classification, the difference between the actual wage and benefit rates (combined) paid and the wage and benefit rates (combined) required by the new wage determination shall be multiplied by the actual number of hours expended for each craft involved in accomplishing the unit-priced work item. The product of this computation will then be divided by

the actual number of units ordered in the preceding contract period. The total of these computations for each craft will be added to the current contract unit price to obtain the new contract unit price. The extended amount for the contract line item will be obtained by multiplying the new unit price by the estimated quantity. If actual hours are not available from the preceding contract period for computation of the adjustment for a specific contract unit of work, the Contractor, in agreement with the Contracting Officer, shall estimate the total hours per craft per contract unit of work.

EXAMPLE: ASPHALT PAVING—CURRENT PRICE \$3.38 PER SQUARE YARD									
DBA Craft	New WD		Hourly rate paid		Diff.		Actual Hrs	Actual units (sq. yard)	Increase/sq yard
Equip. Opr.	\$18.50	–	\$18.00	=	\$.50	×	600 hrs./	3,000 sq. yrd.	= \$.10
Truck Driver	\$19.00	–	\$18.25	=	\$.75	×	525 hrs./	3,000 sq. yrd.	= \$.13
Laborer	\$11.50	–	\$11.25	=	\$.25	×	750 hrs./	3,000 sq. yrd.	= \$.06
Total increase per square yard =									\$.29*
* Note: Adjustment for labor rate increases or decreases may be accompanied by social security and unemployment taxes and workers' compensation insurance.									
Current unit price		=	\$3.38	per square yard					
Add DBA price adj.			+ .29						
New unit price			\$3.67	per square yard					

(End of clause)

**52.222-33 Notice of Requirement for Project Labor Agreement.**

As prescribed in 22.505(a)(1), insert the following provision:

NOTICE OF REQUIREMENT FOR PROJECT LABOR AGREEMENT (MAY 2010)

(a) *Definitions.* “Labor organization” and “project labor agreement,” as used in this provision, are defined in the clause of this solicitation entitled Project Labor Agreement.

(b) Consistent with applicable law, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

(c) Consistent with applicable law, the project labor agreement reached pursuant to this provision shall—

(1) Bind the offeror and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;

(2) Allow the offeror and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;

(3) Contain guarantees against strikes, lockouts, and similar job disruptions;

(4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the project labor agreement;

(5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

(6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.

(d) Any project labor agreement reached pursuant to this provision does not change the terms of this contract or provide for any price adjustment by the Government.

(e) The offeror shall submit to the Contracting Officer a copy of the project labor agreement with its offer.

(End of provision)

*Alternate I (May 2010).* As prescribed in 22.505(a)(1), substitute the following paragraphs (b) and (e) for paragraphs (b) and (e) of the basic clause.

(b) The apparent successful offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

(e) The apparent successful offeror shall submit to the Contracting Officer a copy of the project labor agreement prior to contract award.

*Alternate II (May 2010).* As prescribed in [22.505\(a\)\(2\)](#), substitute the following paragraph (b) in lieu of paragraphs (b) through (e) of the basic clause:

(b) Consistent with applicable law, if awarded the contract, the offeror shall negotiate a project labor agreement with one or more labor organizations for the term of the resulting construction contract.

**52.222-34 Project Labor Agreement.**

As prescribed in [22.505\(b\)\(1\)](#), insert the following clause:

PROJECT LABOR AGREEMENT (MAY 2010)

(a) *Definitions.* As used in this clause—

“Labor organization” means a labor organization as defined in [29 U.S.C. 152\(5\)](#).

“Project labor agreement” means a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a specific construction project and is an agreement described in [29 U.S.C. 158\(f\)](#).

(b) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into prior to the award of this contract in accordance with solicitation provision [52.222-33](#), Notice of Requirement for Project Labor Agreement.

(c) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts with subcontractors engaged in construction on the construction project.

(End of clause)

*Alternate I (May 2010).* As prescribed in [22.505\(b\)\(2\)](#), substitute the following paragraphs (b) through (f) for paragraphs (b) and (c) of the basic clause:

(b) Consistent with applicable law, the Contractor shall negotiate a project labor agreement with one or more labor organizations for the term of this construction contract. The Contractor shall submit an executed copy of the project labor agreement to the Contracting Officer.

(c) Consistent with applicable law, the project labor agreement reached pursuant to this clause shall—

(1) Bind the Contractor and all subcontractors engaged in construction on the construction project to comply with the project labor agreement;

(2) Allow the Contractor and all subcontractors to compete for contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;

(3) Contain guarantees against strikes, lockouts, and similar job disruptions;

(4) Set forth effective, prompt, and mutually binding procedures for resolving labor disputes arising during the project labor agreement;

(5) Provide other mechanisms for labor-management cooperation on matters of mutual interest and concern, including productivity, quality of work, safety, and health; and

(6) Fully conform to all statutes, regulations, Executive orders, and agency requirements.

(d) Any project labor agreement reached pursuant to this clause does not change the terms of this contract or provide for any price adjustment by the Government.

(e) The Contractor shall maintain in a current status throughout the life of the contract the project labor agreement entered into pursuant to this clause.

(f) *Subcontracts.* The Contractor shall require subcontractors engaged in construction on the construction project to agree to any project labor agreement negotiated by the prime contractor pursuant to this clause, and shall include the substance of paragraphs (d) through (f) of this clause in all subcontracts with subcontractors engaged in construction on the construction project.

**52.222-35 Equal Opportunity for Veterans.**

As prescribed in [22.1310\(a\)\(1\)](#), insert the following clause:

EQUAL OPPORTUNITY FOR VETERANS (JUL 2014)

(a) *Definitions.* As used in this clause—

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR [22.1301](#).

(b) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) *Subcontracts.* The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

*Alternate I (Jul 2014).* As prescribed in [22.1310\(a\)\(2\)](#), add the following as a preamble to the clause:

**NOTICE:** The following term(s) of this clause are waived for this contract: \_\_\_\_\_ [*List term(s)*].

**52.222-36 Equal Opportunity for Workers with Disabilities.**

As prescribed in [22.1408\(a\)](#), insert the following clause:

EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES  
(JUL 2014)

(a) *Equal opportunity clause.* The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) *Subcontracts.* The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

(End of clause)

*Alternate I (Jul 2014).* As prescribed in [22.1408\(b\)](#), add the following as a preamble to the clause:

**NOTICE:** The following term(s) of this clause are waived for this contract: \_\_\_\_\_ [*List term(s)*].

**52.222-37 Employment Reports on Veterans.**

As prescribed in [22.1310\(b\)](#), insert the following clause:

EMPLOYMENT REPORTS ON VETERANS (JUL 2014)

(a) *Definitions.* As used in this clause, “Armed Forces service medal veteran,” “disabled veteran,” “active duty wartime or campaign badge veteran,” and “recently separated veteran,” have the meanings given in FAR [22.1301](#).

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on—

(1) The total number of employees in the contractor’s workforce, by job category and hiring location, who are disabled veterans, other protected veterans (*i.e.*, active duty wartime or campaign badge veterans), Armed Forces service medal veterans, and recently separated veterans;

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of disabled veterans, other protected veterans (*i.e.*, active duty wartime or campaign badge veterans), Armed Forces service medal veterans, and recently separated veterans; and

(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by completing the Form VETS-100A, entitled “Federal Contractor Veterans’ Employment Report (VETS-100A Report).”

(d) The Contractor shall submit VETS-100A Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12-month period preceding the ending date selected for the report. Contractors may select an ending date—

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-100A. The contractor’s knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under [38 U.S.C. 4212](#).

(g) The Contractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor.

(End of clause)

**52.222-38 Compliance with Veterans’ Employment Reporting Requirements.**

As prescribed in [22.1310\(c\)](#), insert the following provision:

COMPLIANCE WITH VETERANS’ EMPLOYMENT  
REPORTING REQUIREMENTS (SEP 2010)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of [38 U.S.C. 4212\(d\)](#) (*i.e.*, if it has any contract containing Federal Acquisition Regulation clause [52.222-37](#), Employment Reports on Veterans), it has submitted the most recent VETS-100A Report required by that clause.

(End of provision)

**52.222-39 [Reserved]**

**52.222-40 Notification of Employee Rights Under the National Labor Relations Act.**

As prescribed in [22.1605](#), insert the following clause:



NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE  
NATIONAL LABOR RELATIONS ACT (DEC 2010)

(a) During the term of this contract, the Contractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the National Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2 (d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about the Contractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) If the Contractor customarily posts notices to employees electronically, then the Contractor shall also post the required notice electronically by displaying prominently, on any website that is maintained by the Contractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's website that contains the full text of the poster. The link to the Department's website, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be—

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor-Management Standards Web site at [www.dol.gov/olms/regs/compliance/EO13496.htm](http://www.dol.gov/olms/regs/compliance/EO13496.htm); or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Contractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Contractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this contract may be terminated or suspended in whole

or in part, and the Contractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4. Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) *Subcontracts.* (1) The Contractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009, so that such provisions will be binding upon each subcontractor.

(2) The Contractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Contractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if the Contractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, the Contractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

(End of clause)

**52.222-41 Service Contract Labor Standards.**

As prescribed in [22.1006\(a\)](#), insert the following clause:

SERVICE CONTRACT LABOR STANDARDS (MAY 2014)

(a) *Definitions.* As used in this clause—

"Contractor," when this clause is used in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

"Service employee" means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as these terms are defined in Part 541 of Title 29, *Code of Federal Regulations*, as revised. It includes all such persons regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(b) *Applicability.* This contract is subject to the following provisions and to all other applicable provisions of [41 U.S.C. chapter 67](#), Service Contract Labor Standards, and regulations of the Secretary of Labor (29 CFR Part 4). This clause does not apply to contracts or subcontracts administratively exempted by the Secretary of Labor or exempted by [41 U.S.C. 6702](#), as interpreted in Subpart C of 29 CFR Part 4.



(c) *Compensation.*(1) Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor, or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If a wage determination is attached to this contract, the Contractor shall classify any class of service employee which is not listed therein and which is to be employed under the contract (*i.e.*, the work to be performed is not performed by any classification listed in the wage determination) so as to provide a reasonable relationship (*i.e.*, appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this paragraph (c).

(ii) This conforming procedure shall be initiated by the Contractor prior to the performance of contract work by the unlisted class of employee. The Contractor shall submit [Standard Form \(SF\) 1444](#), Request For Authorization of Additional Classification and Rate, to the Contracting Officer no later than 30 days after the unlisted class of employee performs any contract work. The Contracting Officer shall review the proposed classification and rate and promptly submit the completed [SF 1444](#) (which must include information regarding the agreement or disagreement of the employees' authorized representatives or the employees themselves together with the agency recommendation), and all pertinent information to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the Contracting Officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the Contracting Officer who shall promptly notify the Contractor of the action taken. Each affected employee shall be furnished by the Contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay

System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option, or extension of an existing contract, or in any other case where a Contractor succeeds a contract under which the classification in question was previously conformed pursuant to paragraph (c) of this clause, a new conformed wage rate and fringe benefits may be assigned to the conformed classification by indexing (*i.e.*, adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the Contractor shall advise the Contracting Officer of the action taken but the other procedures in subdivision (c)(2)(ii) of this clause need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined under this paragraph (c)(2) of this clause shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay the unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Service Contract Labor Standards statute and this contract.

(vi) Upon discovery of failure to comply with paragraph (c)(2) of this clause, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class or classes of employees commenced contract work.

(3) *Adjustment of compensation.* If the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees under this contract shall be subject to adjustment after 1 year and not less often than once every 2 years, under wage determinations issued by the Wage and Hour Division.

(d) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined under paragraph (c)(2) of this clause by furnishing equivalent com-

binations of bona fide fringe benefits, or by making equivalent or differential cash payments, only in accordance with Subpart D of 29 CFR Part 4.

(e) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any person performing work under this contract (regardless of whether the person is a service employee) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this clause shall relieve the Contractor or any subcontractor of any other obligation under law or contract for payment of a higher wage to any employee.

(f) *Successor contracts.* If this contract succeeds a contract subject to the Service Contract Labor Standards statute under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreement, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1b(b) apply or unless the Secretary of Labor or the Secretary's authorized representative finds, after a hearing as provided in 29 CFR 4.10 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in 29 CFR 4.11, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and Parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor Contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a

contract or subcontract (53 Comp. Gen. 401 (1973)). In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.

(g) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of [41 U.S.C. 6703](#) and of this contract.

(h) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary, hazardous, or dangerous to the health or safety of the service employees. The Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(i) *Records.* (1) The Contractor and each subcontractor performing work subject to the Service Contract Labor Standards statute shall make and maintain for 3 years from the completion of the work, and make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration, a record of the following:

(i) For each employee subject to the Service Contract Labor Standards statute—

(A) Name and address and social security number;

(B) Correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of payments in lieu of fringe benefits, and total daily and weekly compensation;

(C) Daily and weekly hours worked by each employee; and

(D) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.

(ii) For those classes of service employees not included in any wage determination attached to this contract, wage rates or fringe benefits determined by the interested parties or by the Administrator or authorized representative under the terms of paragraph (c) of this clause. A copy of the report required by subdivision (c)(2)(ii) of this clause will fulfill this requirement.

(iii) Any list of the predecessor Contractor's employees which had been furnished to the Contractor as prescribed by paragraph (n) of this clause.

(2) The Contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.

(3) Failure to make and maintain or to make available these records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce these records, the Contracting Officer, upon direction of the Department of Labor and notification to the Contractor, shall take action to cause suspension of any further payment or advance of funds until the violation ceases.

(4) The Contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(j) *Pay periods.* The Contractor shall unconditionally pay to each employee subject to the Service Contract Labor Standards statute all wages due free and clear and without subsequent deduction (except as otherwise provided by law or regulations, 29 CFR Part 4), rebate, or kickback on any account. These payments shall be made no later than one pay period following the end of the regular pay period in which the wages were earned or accrued. A pay period under this statute may not be of any duration longer than semi-monthly.

(k) *Withholding of payments and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as an appropriate official of the Department of Labor requests or such sums as the Contracting Officer decides may be necessary to pay underpaid employees employed by the Contractor or subcontractor. In the event of failure to pay any employees subject to the Service Contract Labor Standards statute all or part of the wages or fringe benefits due under the Service Contract Labor Standards statute, the Contracting Officer may, after authorization or by direction of the Department of Labor and written notification to the Contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of this clause may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(l) *Subcontracts.* The Contractor agrees to insert this clause in all subcontracts subject to the Service Contract Labor Standards statute.

(m) *Collective bargaining agreements applicable to service employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in

the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance such agreements shall be reported promptly after negotiation thereof.

(n) *Seniority list.* Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a Contractor (predecessor) or successor (29 CFR 4.173), the incumbent Prime Contractor shall furnish the Contracting Officer a certified list of the names of all service employees on the Contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor Contractors of each such service employee. The Contracting Officer shall turn over such list to the successor Contractor at the commencement of the succeeding contract.

(o) *Rulings and interpretations.* Rulings and interpretations of the Service Contract Labor Standards statute are contained in Regulations, 29 CFR Part 4.

(p) *Contractor's certification.*(1) By entering into this contract, the Contractor (and officials thereof) certifies that neither it nor any person or firm who has a substantial interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed under [41 U.S.C. 6706](#).

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract under [41 U.S.C. 6706](#).

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, [18 U.S.C. 1001](#).

(q) *Variations, tolerances, and exemptions involving employment.* Notwithstanding any of the provisions in paragraphs (b) through (o) of this clause, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to [41 U.S.C. 6707](#) prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency, or injury may be employed at wages lower than the minimum wages otherwise required by [41 U.S.C. 6703\(1\)](#) without diminishing any fringe benefits or cash payments in lieu thereof required under [41 U.S.C. 6703\(2\)](#), in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, persons with disabilities, and disabled clients of work centers under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).



(2) The Administrator will issue certificates under the statute for the employment of apprentices, student-learners, persons with disabilities, or disabled clients of work centers not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two statutes, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR parts 525 and 528.

(r) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Office of Apprenticeship Training, Employer, and Labor Services (OATELS), U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman’s rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the Contractor as to his entire work force under the registered program.

(s) *Tips.* An employee engaged in an occupation in which the employee customarily and regularly receives more than \$30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by [41 U.S.C. 6703\(1\)](#), in accordance with section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. However, the amount of credit shall not exceed \$1.34 per hour beginning January 1, 1981. To use this provision—

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Labor Standards minimum wage through the combination of direct wages and tip credit; and

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of [41 U.S.C. 6707\(c\)](#).

(t) *Disputes concerning labor standards.* The U.S. Department of Labor has set forth in 29 CFR parts 4, 6, and 8 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

**52.222-42 Statement of Equivalent Rates for Federal Hires.**

As prescribed in [22.1006\(b\)](#), insert the following clause:

STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES  
(MAY 2014)

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of [5 U.S.C. 5341](#) or [5332](#).

*This Statement is for Information Only:  
It is not a Wage Determination*

Employee Class	Monetary Wage—Fringe Benefits
_____	_____
_____	_____
_____	_____
_____	_____

(End of clause)

**52.222-43 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).**

As prescribed in [22.1006\(c\)\(1\)](#), insert the following clause:

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT  
LABOR STANDARDS—PRICE ADJUSTMENT (MULTIPLE  
YEAR AND OPTION CONTRACTS) (MAY 2014)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The wage determination, issued under the Service Contract Labor Standards statute, ([41 U.S.C. chapter 67](#)), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on

the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, ([29 U.S.C. 206](#)) current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (d) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract), and any relevant supporting data, including payroll records, that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(g) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor

until the expiration of 3 years after final payment under the contract.

(End of clause)

**52.222-44 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment.**

As prescribed in [22.1006\(c\)\(2\)](#), insert the following clause:

FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT  
LABOR STANDARDS—PRICE ADJUSTMENT (MAY 2014)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to Contractor collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(c) The contract price, contract unit price labor rates, or fixed hourly labor rates will be adjusted to reflect increases or decreases by the Contractor in wages and fringe benefits to the extent that these increases or decreases are made to comply with—

(1) An increased or decreased wage determination applied to this contract by operation of law; or

(2) An amendment to the Fair Labor Standards Act of 1938 that is enacted subsequent to award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(d) Any such adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause, and to the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance; it shall not otherwise include any amount for general and administrative costs, overhead, or profit.

(e) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after the effective date of the wage change, unless this period is extended by the Contracting Officer in writing. The Contractor shall promptly notify the Contracting Officer of any decrease under this clause, but nothing in the clause shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount and the change in fixed hourly rates (if this is a time-and-materials or labor-hour contract) claimed and any relevant supporting data that the Contracting Officer may reasonably require. Upon agreement of the parties, the contract price, contract unit price labor rates, or fixed hourly rates shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment and its effective date.

(f) The Contracting Officer or an authorized representative shall, until the expiration of 3 years after final payment under the contract, have access to and the right to examine any



directly pertinent books, documents, papers, and records of the Contractor.

(End of clause)

#### 52.222-45 [Reserved]

#### 52.222-46 Evaluation of Compensation for Professional Employees.

As prescribed in [22.1103](#), insert the following provision:

EVALUATION OF COMPENSATION FOR PROFESSIONAL  
EMPLOYEES (FEB 1993)

(a) Recompetition of service contracts may in some cases result in lowering the compensation (salaries and fringe benefits) paid or furnished professional employees. This lowering can be detrimental in obtaining the quality of professional services needed for adequate contract performance. It is therefore in the Government's best interest that professional employees, as defined in 29 CFR 541, be properly and fairly compensated. As part of their proposals, offerors will submit a total compensation plan setting forth salaries and fringe benefits proposed for the professional employees who will work under the contract. The Government will evaluate the plan to assure that it reflects a sound management approach and understanding of the contract requirements. This evaluation will include an assessment of the offeror's ability to provide uninterrupted high-quality work. The professional compensation proposed will be considered in terms of its impact upon recruiting and retention, its realism, and its consistency with a total plan for compensation. Supporting information will include data, such as recognized national and regional compensation surveys and studies of professional, public and private organizations, used in establishing the total compensation structure.

(b) The compensation levels proposed should reflect a clear understanding of work to be performed and should indicate the capability of the proposed compensation structure to obtain and keep suitably qualified personnel to meet mission objectives. The salary rates or ranges must take into account differences in skills, the complexity of various disciplines, and professional job difficulty. Additionally, proposals envisioning compensation levels lower than those of predecessor contractors for the same work will be evaluated on the basis of maintaining program continuity, uninterrupted high-quality work, and availability of required competent professional service employees. Offerors are cautioned that lowered compensation for essentially the same professional work may indicate lack of sound management judgment and lack of understanding of the requirement.

(c) The Government is concerned with the quality and stability of the work force to be employed on this contract. Professional compensation that is unrealistically low or not in reasonable relationship to the various job categories, since it may impair the Contractor's ability to attract and retain competent professional service employees, may be viewed as evi-

dence of failure to comprehend the complexity of the contract requirements.

(d) Failure to comply with these provisions may constitute sufficient cause to justify rejection of a proposal.

(End of provision)

#### 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.

As prescribed in [22.1006\(e\)\(1\)](#), insert the following provision:

EXEMPTION FROM APPLICATION OF THE SERVICE  
CONTRACT LABOR STANDARDS TO CONTRACTS FOR  
MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN  
EQUIPMENT-CERTIFICATION (MAY 2014)

(a) The offeror shall check the following certification:

CERTIFICATION

The offeror  does  does not certify that—

(1) The items of equipment to be serviced under this contract are used regularly for other than Government purposes, and are sold or traded by the offeror (or subcontractor in the case of an exempt subcontractor) in substantial quantities to the general public in the course of normal business operations;

(2) The services will be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(i) An "established catalog price" is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(ii) An "established market price" is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror; and

(3) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract are the same as that used for these employees and equivalent employees servicing the same equipment of commercial customers.

(b) 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. If the offeror certifies to the conditions in paragraph (a) of this provision, and the Contracting Officer determines in accordance with FAR [22.1003-4\(c\)\(3\)](#) that the Service Contract Labor Standards statute—

(1) Will not apply to this offeror, then the Service Contract Labor Standards clause in this solicitation will not be included in any resultant contract to this offeror; or

(2) Will apply to this offeror, then the clause at [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, in this solicitation will not be included in any resultant contract awarded to this offeror, and the offeror may be provided an opportunity to submit a new offer on that basis.

(c) If the offeror does not certify to the conditions in paragraph (a) of this provision—

(1) The clause in this solicitation at [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements, will not be included in any resultant contract awarded to this offeror; and

(2) The offeror shall notify the Contracting Officer as soon as possible, if the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation.

(d) The Contracting Officer may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the Contracting Officer as required in paragraph (c) of this provision.

(End of provision)

#### **52.222-49 Service Contract Labor Standards—Place of Performance Unknown.**

As prescribed in [22.1006](#)(f), insert the following clause:

##### SERVICE CONTRACT LABOR STANDARDS—PLACE OF PERFORMANCE UNKNOWN (MAY 2014)

(a) This contract is subject to the Service Contract Labor Standards statute, and the place of performance was unknown when the solicitation was issued. In addition to places or areas identified in wage determinations, if any, attached to the solicitation, wage determinations have also been requested for the following: \_\_\_\_\_ [*insert places or areas*]. The Contracting Officer will request wage determinations for additional places or areas of performance if asked to do so in writing by \_\_\_\_\_ [*insert time and date*].

(b) Offerors who intend to perform in a place or area of performance for which a wage determination has not been attached or requested may nevertheless submit bids or proposals. However, a wage determination shall be requested and incorporated in the resultant contract retroactive to the date of contract award, and there shall be no adjustment in the contract price.

(End of clause)

#### **52.222-50 Combating Trafficking in Persons.**

As prescribed in [22.1705](#)(a), insert the following clause:

##### COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) *Definitions.* As used in this clause—

“Coercion” means—

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process. “Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced Labor” means knowingly providing or obtaining the labor or services of a person—

(1) By threats of serious harm to, or physical restraint against, that person or another person;

(2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) By means of the abuse or threatened abuse of law or the legal process.

“Involuntary servitude” includes a condition of servitude induced by means of—

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means—

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) *Policy.* The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not—

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract; or

(3) Use forced labor in the performance of the contract.

(c) *Contractor requirements.* The Contractor shall—

(1) Notify its employees of—

(i) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.* The Contractor shall inform the Contracting Officer immediately of—

(1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

(2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) *Remedies.* In addition to other remedies available to the Government, the Contractor’s failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may result in—

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

(f) *Subcontracts.* The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

(g) *Mitigating Factor.* The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State’s Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.

(End of clause)

*Alternate I (Aug 2007).* As prescribed in 22.1705(b), substitute the following paragraph in place of paragraph (c)(1)(i) of the basic clause:

(i)(A) The United States Government’s zero tolerance policy described in paragraph (b) of this clause; and

(B) The following directive(s) or notice(s) applicable to employees performing work at the contract place(s) of performance as indicated below:

Document Title	Document may be obtained from:	Applies performance to in/at:
_____	_____	_____
_____	_____	_____

[Contracting Officer shall insert title of directive/notice; indicate the document is attached or provide source (such as website link) for obtaining document; and, indicate the contract performance location outside the U.S. to which the document applies.]

#### **52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.**

As prescribed in 22.1006(e)(2), insert the following clause:

##### EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT—REQUIREMENTS (MAY 2014)

(a) The items of equipment to be serviced under this 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.

(b) The services shall be furnished at prices which are, or are based on, established catalog or market prices for the maintenance, calibration, or repair of equipment.

(1) An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public.

(2) An “established market price” is a current price, established in the usual course of trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.

(c) The compensation (wage and fringe benefits) plan for all service employees performing work under the contract shall be the same as that used for these employees and for equivalent employees servicing the same equipment of commercial customers.

(d) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine the applicability of this exemption to any subcontract on or before subcontract award. In making a judgment that the exemption applies, the Contractor shall consider all factors and make an affirmative determination

that all of the conditions in paragraphs (a) through (c) of this clause will be met.

(e) If the Department of Labor determines that any conditions for exemption in paragraphs (a) through (c) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures at 29 CFR 4.123(e)(1)(iv) and 29 CFR 4.5(c) will be followed.

(f) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts for exempt services under this contract.

(End of clause)

**52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.**

As prescribed in [22.1006\(e\)\(3\)](#), insert the following provision:

EXEMPTION FROM APPLICATION OF THE SERVICE  
CONTRACT LABOR STANDARDS TO CONTRACTS FOR  
CERTAIN SERVICES—CERTIFICATION (MAY 2014)

(a) The offeror shall check the following certification:

CERTIFICATION

The offeror  does  does not certify that—

(1) 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;

(2) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the offeror, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An “established market price” is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or offeror;

(3) 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

(4) The offeror uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the offeror uses for these employees and for equivalent employees servicing commercial customers.

(b) 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. If the offeror certifies to the conditions in paragraph (a) of this provision, and the Contracting Officer determines in accordance with FAR [22.1003-4\(d\)\(3\)](#) that the Service Contract Labor Standards statute—

(1) Will not apply to this offeror, then the Service Contract Labor Standards clause in this solicitation will not be included in any resultant contract to this offeror; or

(2) Will apply to this offeror, then the clause at FAR [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements, in this solicitation will not be included in any resultant contract awarded to this offer, and the offeror may be provided an opportunity to submit a new offer on that basis.

(c) If the offeror does not certify to the conditions in paragraph (a) of this provision—

(1) The clause of this solicitation at [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements, will not be included in any resultant contract to this offeror; and

(2) The offeror shall notify the Contracting Officer as soon as possible if the Contracting Officer did not attach a Service Contract Labor Standards wage determination to the solicitation.

(d) The Contracting Officer may not make an award to the offeror, if the offeror fails to execute the certification in paragraph (a) of this provision or to contact the Contracting Officer as required in paragraph (c) of this provision.

(End of provision)

**52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.**

As prescribed in [22.1006\(e\)\(4\)](#), insert the following clause:

EXEMPTION FROM APPLICATION OF THE SERVICE  
CONTRACT LABOR STANDARDS TO CONTRACTS FOR  
CERTAIN SERVICES—REQUIREMENTS (MAY 2014)

(a) The services under this contract are offered and sold regularly to non-Governmental customers, and are provided by the Contractor to the general public in substantial quantities in the course of normal business operations.

(b) The contract services are furnished at prices that are, or are based on, established catalog or market prices. An “established catalog price” is a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or the Contractor, is either published or otherwise available for inspection by customers, and states prices at which sales currently, or were last, made to a significant number of buyers constituting the general public. An “established market price” is a current price, established in the usual course of ordinary and usual trade between buyers and sellers free to bargain, which can be substantiated from sources independent of the manufacturer or Contractor.



(c) 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.

(d) The Contractor uses the same compensation (wage and fringe benefits) plan for all service employees performing work under the contract as the Contractor uses for these employees and for equivalent employees servicing commercial customers.

(e) (1) Except for services identified in FAR [22.1003-4\(d\)\(1\)\(iv\)](#), the subcontractor for exempt services shall be selected for award based on other factors in addition to price or cost with the combination of other factors at least as important as price or cost; or

(2) A subcontract for exempt services shall be awarded on a sole source basis.

(f) The Contractor is responsible for compliance with all the conditions of this exemption by its subcontractors. The Contractor shall determine in advance, based on the nature of the subcontract requirements and knowledge of the practices of likely subcontractors, that all or nearly all likely subcontractors will meet the conditions in paragraphs (a) through (d) of this clause. If the services are currently being performed under a subcontract, the Contractor shall consider the practices of the existing subcontractor in making a determination regarding the conditions in paragraphs (a) through (d) of this clause. If the Contractor has reason to doubt the validity of the certification, the requirements of the Service Contract Labor Standards statute shall be included in the subcontract.

(g) If the Department of Labor determines that any conditions for exemption at paragraphs (a) through (e) of this clause have not been met, the exemption shall be deemed inapplicable, and the contract shall become subject to the Service Contract Labor Standards statute. In such case, the procedures in at 29 CFR 4.123(e)(2)(iii) and 29 CFR 4.5(c) will be followed.

(h) The Contractor shall include the substance of this clause, including this paragraph (h), in subcontracts for exempt services under this contract.

(End of clause)

#### 52.222-54 Employment Eligibility Verification.

As prescribed in [22.1803](#), Insert the following clause:

EMPLOYMENT ELIGIBILITY VERIFICATION (AUG 2013)

(a) *Definitions.* As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition at [2.101](#));

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

(iii) Offered to the Government, 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. Per 46 CFR 525.1 (c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

“Employee assigned to the contract” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at [22.1803](#). An employee is not considered to be directly performing work under a contract if the employee—

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

“Subcontract” means any contract, as defined in [2.101](#), entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

“United States”, as defined in [8 U.S.C. 1101\(a\)\(38\)](#), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.* (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(i) *Enroll.* Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) *Verify all new employees.* Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) *Verify employees assigned to the contract.* For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—



(i) *All new employees.* (A) *Enrolled 90 calendar days or more.* The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) *Enrolled less than 90 calendar days.* Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) *Employees assigned to the contract.* For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at [20 U.S.C. 1001\(a\)](#)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) *Option to verify employment eligibility of all employees.* The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of—

(i) Enrollment in the E-Verify program; or

(ii) Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) *Individuals previously verified.* The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

(1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) *Subcontracts.* The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—

(1) *Is for—* (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

(ii) Construction;

(2) Has a value of more than \$3,000; and

(3) Includes work performed in the United States.

(End of clause)

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.

As prescribed in [23.804\(a\)](#), insert the following clause:

##### OZONE-DEPLETING SUBSTANCES (MAY 2001)

(a) *Definition.* "Ozone-depleting substance," as used in this clause, 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 which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by [42 U.S.C. 7671j](#) (b), (c), and (d) 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).

(End of clause)

#### 52.223-12 Refrigeration Equipment and Air Conditioners.

As prescribed in [23.804\(b\)](#), insert the following clause:

##### REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)

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.

(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/PEAT](http://www.epa.gov/PEAT).

(End of clause)

Alternate I (JUN 2014). 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/PEAT](http://www.epa.gov/PEAT).

(End of clause)

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/EEP\\_requirements.html](http://www1.eere.energy.gov/femp/procurement/EEP_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 (JUN 2014)

(a) *Definitions.* As used in this clause—

**52.244-1 [Reserved]****52.244-2 Subcontracts.**

As prescribed in [44.204\(a\)\(1\)](#), insert the following clause:

## SUBCONTRACTS (OCT 2010)

(a) *Definitions.* As used in this clause—

“Approved purchasing system” means a Contractor’s purchasing system that has been reviewed and approved in accordance with [Part 44](#) of the Federal Acquisition Regulation (FAR).

“Consent to subcontract” means the Contracting Officer’s written consent for the Contractor to enter into a particular subcontract.

“Subcontract” means any contract, as defined in FAR [Subpart 2.1](#), entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer’s written consent before placing the following subcontracts:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(e)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor’s current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor’s Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason certified cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor’s certified cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor’s certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor’s price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (b), (c), or (d) of this clause.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor’s purchasing system shall constitute a determination—

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR [15.404-4\(c\)\(4\)\(i\)](#).



(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR [Subpart 44.3](#).

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(End of clause)

*Alternate I (June 2007).* As prescribed in [44.204\(a\)\(2\)](#), substitute the following paragraph (e)(2) for paragraph (e)(2) of the basic clause:

(e)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), or (d) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (e)(1)(i) through (e)(1)(iv) of this clause.

**52.244-3 [Reserved]**

**52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).**

As prescribed in [44.204\(b\)](#), insert the following clause:

SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND  
 CONSULTANTS (ARCHITECT-ENGINEER SERVICES)  
 (AUG 1998)

Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors, associates, or consultants.

(End of clause)

**52.244-5 Competition in Subcontracting.**

As prescribed in [44.204\(c\)](#), insert the following clause:

COMPETITION IN SUBCONTRACTING (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical

extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

(End of clause)

**52.244-6 Subcontracts for Commercial Items.**

As prescribed in [44.403](#), insert the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS (JUL 2014)

(a) *Definitions.* As used in this clause—  
 "Commercial item" has the meaning contained in Federal Acquisition Regulation [2.101](#), Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c)(1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (APR 2010) ([41 U.S.C. 3509](#)), if the subcontract exceeds \$5,000,000 and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) [52.219-8](#), Utilization of Small Business Concerns (MAY 2014) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iv) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

(v) [52.222-35](#), Equal Opportunity for Veterans (JUL 2014) ([38 U.S.C. 4212\(a\)](#));

(vi) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUL 2014) ([29 U.S.C. 793](#)).

(vii) [52.222-37](#), Employment Reports on Veterans (JUL 2014) ([38 U.S.C. 4212](#)).

(viii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O.

13496), if flow down is required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(ix) [52.222-50](#), Combating Trafficking in Persons (FEB 2009) ([22 U.S.C. 7104\(g\)](#)).

(x) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (JUL 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

(xi) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (DEC 2013), if flow down is required in accordance with paragraph (c) of FAR clause [52.232-40](#).

(xii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C. App. 1241](#) and [10 U.S.C. 2631](#)), if flow down is required in accordance with paragraph (d) of FAR clause [52.247-64](#).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

This page intentionally left blank.

PROVISION OR CLAUSE	PRESCRIBED IN	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	
																								PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT
52.222-36 Equal Opportunity for Workers with Disabilities. ✓	22.1408(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Alternate I	22.1408(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
52.222-37 Employment Reports on Veterans.	22.1310(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
52.222-38 Compliance with Veterans' Employment Reporting Requirements.	22.1310(c)	P	Yes	K	A	A	A	A	A	A	a	A	A	A	A	A	A	A	A	A	A	A		
52.222-40 Notification of Employee Rights Under the National Labor Relations Act.	22.1605	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
52.222-41 Service Contract Labor Standards.	22.1006(a)	C	Yes	I	A		A		A				A		A	A	A			A	A			
52.222-42 Statement of Equivalent Rates for Federal Hires.	22.1006(b)	C	No	I	A		A		A				A		A	A	A			A	A			
52.222-43 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment (Multiple Year and Option Contracts).	22.1006(c)(1)	C	Yes	I			A						A		A	A	A			A	A			
52.222-44 Fair Labor Standards Act and Service Contract Labor Standards—Price Adjustment.	22.1006(c)(2)	C	Yes	I			A						A		A	A	A			A	A			
52.222-46 Evaluation of Compensation for Professional Employees.	22.1103	P	Yes	L			A						A											
52.222-48 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.	22.1006(e)(1)	C	Yes	I			A						A								A			
52.222-49 Service Contract Labor Standards—Place of Performance Unknown.	22.1006(f)	C	Yes	I			A						A		A	A					A			
52.222-50 Combating Trafficking in Persons.	22.1705(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	22.1705(b)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
52.222-51 Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.	22.1006(e)(2)	C	Yes	I			A						A								A			
52.222-52 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Certification.	22.1006(e)(3)	P	Yes	I			A						A								A			
52.222-53 Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.	22.1006(e)(4)	C	Yes	I			A						A								A			
52.222-54 Employment Eligibility Verification	22.1803	C	Yes	I	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.	23.406(a)	P	Yes	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	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
52.223-2 Affirmative Procurement of Brobased Products Under Service and Construction Contracts.	23.406(b)	C	Yes	I					A	A	A	A	A			A							A
52.223-3 Hazardous Material Identification and Material Safety Data.	23.303	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.303(b)	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.	23.406(c)	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.	23.1005	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.1005(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate II	23.1005(c)	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.	23.505	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.	23.602	C	No	I	A	A	A	A	A	A	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.	23.406(d)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.406(d)	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-10 Waste Reduction Program.	23.705(a)	C	Yes	I					A	A	A	A	A			A							
52.223-11 Ozone-Depleting Substances.	23.804(a)	C	No	I	A	A																	
52.223-12 Refrigeration Equipment and Air Conditioners.	23.804(b)	C	Yes	I					A	A						A							
52.223-13 Acquisition of EPEAT®-Registered Imaging Equipment.	23.705(c)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.705(c)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-14 Acquisition of EPEAT®-Registered Televisions.	23.705(d)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.705(d)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-15 Energy Efficiency in Energy-Consuming Products.	23.206	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-16 IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products.	23.705(b)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	23.705(b)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.	23.406(e)	C	Yes	I					A	A	A	A	A			A	A	A	A	A	A	A	A
52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving	23.1105	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.223-19 Compliance with Environmental Management Systems.	23.903	C	Yes	I					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.224-1 Privacy Act Notification.	24.104(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.224-2 Privacy Act.	24.104(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.225-1 Buy American—Supplies.	25.1101(a)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.225-2 Buy American Certificate.	25.1101(a)(2)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A