



Revision No. 0, dated Oct 13, 2023

Raytheon Company (Business Unit) - Unrestricted Content

Flowdown Attachment

RTN hRIS FDA-2023.0996

Solicitation or RFP No.: N00019-22-R-0049

DPAS Rating: DX-A1

If the Purchase Order on date of award is valued at or above the threshold specified in FAR 19.702(a), located at <https://www.acquisition.gov/far/19.702>, and is not for commercial items, the following applies:

In order to meet the requirements of FAR 52.219-9 or DFARS 252.219-7004, the Seller agrees to provide a Small Business Subcontracting Plan prior to the award of a Purchase Order. The referenced plan should contain goals for subcontracting with small businesses, small disadvantaged businesses, woman-owned small business, historically under-utilized small business, veteran owned and service disabled veteran owned businesses in accordance with the plan requirements outlined in FAR 52.219-9 or DFARS 252.219-7004.

In addition, the Seller must submit an Individual Subcontracting Report (ISR) via the Electronic Subcontracting Reporting System (eSRS) (<http://www.esrs.gov>) on a semi-annual basis for reporting periods ending on March 31st and September 30th. Reports are due no later than 30 days after the close of each reporting period.

Email for Seller's official acknowledging or rejecting the ISR: ris.esrs@raytheon.com
(Seller must include contractor official on the ISR report email notification)

The following customer solicitation requirements apply to this Order or Purchase Order to the extent indicated below and are hereby incorporated into the Order or Purchase Order by full text or by reference with the same force and effect as if they were given in full text. These clauses may contain certifications, representations, disclosures, notices, and/or other information that may be applicable to Seller for this Order or Purchase Order. By accepting these terms and conditions, the Seller agrees to abide by the requirements of these clauses and shall furnish to Buyer any required certification, representation, or disclosure. Upon Supplier's or Seller's request, Buyer's Purchasing Representative will make their full text available. Also, the full text of a FAR or DFARS provision or clause may be accessed electronically at these addresses: <https://www.acquisition.gov/dfars/part-252-solicitation-provisions-and-contract-clauses> or <https://www.acquisition.gov/far/>:

Whenever necessary to make the context of the Clauses applicable to the Order or Purchase Order, the term "Contractor" or "Offeror" shall mean "Supplier" or "Seller", "Subcontractor" shall mean "Seller's Subcontractor", the term "Contract" shall mean the Order or Purchase Order, and the term "Government", "Contracting Officer" and equivalent phrases shall mean Buyer, except the terms "Government" and "Contracting Officer" do not change: (a) in the phrases, "Government Property", "Government-Furnished Property", and "Government-Owned Property", (b) in the patent Clauses if incorporated herein, (c) when a right, act, authorization, or obligation can be granted or performed only by the Government or the Contracting Officer or a duly authorized representative, such as in FAR 52.227-1 and FAR 52.227-2, (d) when title to property is to be transferred directly to the Government, (e) when access to Proprietary Information is required, except as specifically otherwise provided herein,

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and (f) where specifically modified herein. Supplier or Seller shall incorporate into each lower-tier subcontract placed in support of the Order or Purchase Order all applicable Clauses in accordance with the flowdown requirements specified in each such Clause. If any of the following clauses do not apply to this Order or Purchase Order, such clauses are considered to be self-deleting.

SPECIAL SOLICITATION REQUIREMENTS:

CTXT.227-9509 SUMMARY RELIABILITY ASSURANCE/BURN-IN TESTS REPORTS (NAVAIR) (APR 2022)

(Applicable to all Orders exceeding \$500,000.)

(b) The contractor shall provide and maintain procedures to enable his full participation in the failure experience data interchange of the Government Industry Data Exchange Program (GIDEP) (www.gidep.org). Compliance with this clause shall not relieve the contractor from complying with any other provision of the contract. The contractor shall maintain status of GIDEP failure experience reports and shall provide GIDEP Annual Progress Report in accordance with DI-QCIC-80127A paragraph 10.2.

(c) The contractor shall prepare GIDEP ALERTS in accordance with DI-QCIC- 80126B, paragraph 10.1, for material discrepancies which have adversely impacted or have the potential to adversely impact spare/repair parts reliability.

(d) Appropriate action, as deemed necessary by the contractor, shall be taken in response to GIDEP ALERTS received which may impact materials procured hereunder.

(e) The contractor agrees to insert paragraphs (b), (c) and (d) of this clause in any subcontract hereunder exceeding \$500,000. When so inserted, the word "contractor" shall be changed to "subcontractor."

4.1.1 Unclassified Information (CUI)

(Applicable to Orders that include CUI.)

Controlled Unclassified Information (CUI) shall be marked, handled and safeguarded as defined in the National Archives Industrial Security Program (NISP) Special Publication (SP) 800-171 Protecting Controlled Unclassified Information, <https://www.archives.gov/cui>, the DoDI 5200.48, Controlled Unclassified in Nonfederal Information, and the 32 CFR 2002, Controlled Unclassified Information Systems and Organizations."

4.1.2 Classified Data

(Applicable to Orders that include classified material.)

Classified materials shall be marked, handled and safeguarded as defined in the Part 117 of Title 32, Code of Federal Regulations (CFR) National Industrial Security Program (NISP) and the DoD-M 5200.01 Volumes 1 through 3 (28 July 2020), and NAWCAD 5510.1B Instruction).

H-4 DELIVERY OF TECHNICAL DATA AND SOFTWARE NECESSARY TO PERMIT THE GOVERNMENT TO REPAIR, MAINTAIN, SUSTAIN AND ENSURE THE SAFETY, AIRWORTHINESS, AND RELIABILITY OF THE E-XX TWS

(Applicable to all Orders that include technical data, computer software, or computer software documentation.)

(a) Definitions. As used in this clause—

(1) Reserved.

(2) “Operation, Maintenance, Installation, and Training” (referred to as “OMIT”) means:

(i) “Operation” is any activity encompassing functional use of a weapon system to meet normal, safety, airworthiness, and readiness conditions, to include mission execution, handling, testing, emergency, utilization, and familiarization.

(ii) “Maintenance” is all scheduled and unscheduled organizational, intermediate, and depot-level maintenance and repair capabilities, to include sustaining engineering necessary to maintain, inspect, test, service, adjust, troubleshoot, analyze, remove, replace, repair, install, disassemble, reassemble, and overhaul to maintain in, or restore a weapon system to a serviceable, safe, or airworthy condition.

(iii) “Installation” is all infrastructure such as facility planning, site surveys, test and integration labs, operations and maintenance facilities (e.g. hangars, dry docks, runways, ramps, wash racks, fueling/defueling stations, etc.), supply chain management, test cells, test stands and benches, tools, support equipment, communications, data links, security, data information technology, and all other data and planning used in the initial standup and continued operations, training, sustainment, and maintenance at all operational sites as well as Organizations, Intermediate, and Depot-Level Maintenance requirements in support of a weapon system.

(iv) “Training” is all formal and informal classroom, simulation, or on-site instruction, supervised and unsupervised, for functional use of, operation of, testing of, supply chain management of and organizational, intermediate, and depot-level maintenance of a weapon system.

(b) (1) The Seller shall deliver to the government all technical data and software that the Original Equipment Manufacturers (OEMs) of any part, system, subsystem, or equipment use or rely upon to fix, repair, overhaul, rework, modify, calibrate, or maintain any part, system, subsystem or equipment associated with the life cycle of the END ITEM SYSTEM.

(2) To the extent not covered by or included in the technical data delivered in accordance with subparagraph (1) of this paragraph, the technical data and software delivered shall allow the Government to perform Organizational level (O-Level) Maintenance, Intermediate level (I-Level) Maintenance, and Depot level (D- Level) Maintenance as defined in the COMNAVAIRFORINST 4790.2 series.

(3) To the extent not covered by or included in the technical data delivered in accordance with subparagraph (1) or (2) of this paragraph, the Seller shall deliver OMIT data to include the in-service engineering/sustainment data, test data, maintenance/logistics data, material data, configuration data, and depot/overhaul data identified in Table 1, which is necessary for the Government to repair, maintain, sustain, and ensure the safety, airworthiness, and reliability of the END ITEM SYSTEM. Notwithstanding the above, under this clause, the Seller is not required to deliver technical data that pertains solely to any Government Furnished Property.

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Table 1. Categories of OMIT Data Required to be Delivered

In-Service Engineering/Sustainment Data	Test Data	Maintenance/Logistics Data	Material Data	Configuration Data	Depot/Overhaul Data
Technical Data Package (to include: drawings, models, associated lists, schematics, wire diagrams, quality assurance provisions, software documentation)	Modeling and Simulation Data	Logistics Product Data	Failure data	Configuration management data	Unique manufacturing processes to support depot overhaul
Process specifications referenced on drawings	Test Reports	Organizational/Intermediate/Depot (O/I/D) Publications	Demand data	Engineering Change Proposals	Special tooling data

Air Frame loads model (global/breakout)	Loads Tests	Structural Repair Manuals	Quality deficiency reports	Critical item lists / Critical Safety Application	
Strength Analyses (including Finite Element Method (FEM))	Flight Certification Tests	Spares Data	Optimized Organizational Maintenance Activity (OOMA) data		
Durability and Damage Tolerance Analyses (including spectra)	Acceptance Test Procedures (ATPs)	Failure Mode Effects and Criticality Analysis (FMECA)	Readiness Analysis Data		
Aero Performance Analyses/Modeling	System of System (SoS) test results	Training data			
Electrical Loads and Distribution Analyses/Models		Support Equipment data			
Thermal Loads Analyses/Modeling		Reliability Centered Maintenance/Condition Based Maintenance (RCM/CBM) data			
Mass Properties		Diminishing Manufacturing Sources and Material Shortages (DMSMS) Data			
		Naval Air Training and Operating Procedures Standardization (NATOPS)			

(c) Standard License Rights. The rights in the technical data and software delivered under this contract will be determined in accordance with the standard DFARS license clauses. The Seller shall mark the technical data

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and software in accordance with the standard DFARS license clauses. (The Offeror may propose greater rights than those to which the Government is entitled under the standard DFARS license clauses in accordance with paragraph (d) below.)

(d) Special License Rights for In-Service Engineering/Sustainment Data.

(1) Grant of License. In-Service Engineering/Sustainment Data in support of Government sustainment activities for the END ITEM SYSTEM, which were developed exclusively at private expense and do not otherwise meet the criteria for unlimited rights or government purpose rights at DFARS 252.227-7013 or DFARS 252.227-7014 shall be delivered to the Government with the special license rights set forth in this clause and marked in accordance with the SPECIAL LICENSE RIGHTS legend set forth in DFARS 252.227-7013 or DFARS 252.227-7014. The license identifier shall be "Clause H-4(d)."

(2) Terms of Special License. The Seller shall provide the United States Government with special license rights consistent with "Government Purpose Rights" (as defined in DFARS 252.227-7013 or DFARS 252.227-7014) for all In-Service Engineering/Sustainment Data subject to paragraph (b)(1). These rights shall convert to Unlimited Rights (as defined in DFARS 252.227-7013 or DFARS 252.227-7014).

(e) Subcontractors and Suppliers. The Seller shall include this clause in its subcontracts or other contractual or legal instruments with its subcontractors or suppliers at any tier.

(f) Deferred Ordering. The terms and conditions of this clause shall apply to any technical data, computer software, or computer software documentation developed under this contract pursuant to DFARS 252.227-7027.

H-6 DFARS 252.227-7013, 252.227-7014, AND 252.227-7015 CLARIFICATION OF POST-AWARD IDENTIFICATION AND ASSERTIONS

(Applicable to all Orders that include deliverable noncommercial and commercial technical data and computer software.)

(a) For any new information or inadvertent omissions in the Contractor's Data Rights Assertion List (DRAL) identified during the performance of this contract, the Seller shall identify both noncommercial and commercial technical data and computer software that it intends to deliver with less than unlimited rights and state the reason for the new information or inadvertent omission. For commercial technical data and commercial computer software specifically, the Seller shall provide the same types of information, using a similar format, and following the same procedures and requirements as specified for noncommercial technical data and noncommercial computer software at DFARS 252.227-7013 and 252.227-7014. Commercial technical data and commercial computer software shall be subject to the terms and conditions in Attachment (26) "Addendum to End User License Agreement".

(b) With respect to each assertion submitted post-award, the Contractor shall specify in the "Basis for Assertion" column, the Subcontract Line Item, SOW paragraph(s), and Work Breakdown Structure (WBS) element(s) to which the technical data or computer software assertion pertains. Assertions shall be made at the lowest practical segregable level, i.e., the same level used for the Seller's source of funds determinations in establishing the government's license rights, specifying the items or processes, if any, to which the technical data or computer software deliverable pertain.

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(c) Commercial and Special License Rights Assertions

(1) Commercial technical data and/or computer software new information or inadvertent omissions shall be asserted on the DRAL by stating in the "Basis for Assertion" column the name of the commercial license identified "Contractor Provided Licenses" and asserting in the "Asserted Rights Category" column "Commercial."

(2) Noncommercial technical data and/or computer software new information or inadvertent omissions subject to the special license set forth in Clause H-4 "Delivery Of Technical Data And Software Necessary To Permit The Government To Repair, Maintain, And Ensure The Safety, Airworthiness, And Reliability Of END ITEM SYSTEM shall be asserted on the DRAL by stating in the "Basis for Assertion" column whether the noncommercial technical data and/or computer software was developed exclusively or partially at private expense and asserting in the "Asserted Rights Category" column "Special License Rights IAW H-4."

(3) Noncommercial technical data and/or computer software new information or inadvertent omissions subject to the Verification Data Special License set forth in Clause H-9 "Data Rights And Licenses In Support Of Test Activities" shall be asserted on the DRAL by stating in the "Basis for Assertion" column whether the noncommercial technical data and/or computer software was developed exclusively or partially at private expense and asserting in the "Asserted Rights Category" column "Verification Data Special License Rights IAW H-9."

(d) The Seller shall provide copies of all specially negotiated licenses, commercial licenses for commercial computer software and technical data pertaining to commercial items, and other non-standard licenses that will be delivered to the Government. The Seller shall provide the aforementioned licenses within 60 calendar days of license purchase or at least 60 calendar days prior to delivery, whichever occurs first.

(e) The Seller shall include this clause in its subcontracts or other contractual or legal instruments with its subcontractors or suppliers at any tier.

H-7 COMMERCIAL COMPUTER SOFTWARE LICENSE AGREEMENT

(Applicable to all Orders that include commercial computer software.)

(a) It is anticipated that the Supplier will procure and deliver software containing Open Source Software (OSS) and "commercial computer software" (as defined by DFARS 252.227-7014(a)(1)).

(b) Open source software (OSS). OSS is generally regarded as commercial computer software. It is sometimes licensed under terms that require the user to make freely available in source code form: (i) the user's modifications to the OSS or (ii) any software that the user "combines" with the OSS. If the Supplier uses OSS in the performance of this contract, the Supplier must ensure that the use of the OSS complies with subsection (c) of this clause.

(c) Commercial Computer Software. The Supplier shall acquire the commercial computer software under the licenses customarily provided to the public, except to the extent that the licenses are inconsistent with Federal procurement law or do not otherwise satisfy user needs (see DFARS 227.7202-1(a)). A list of common material terms and conditions of commercial computer software license agreements the Government has determined are inconsistent with Federal procurement law or do not otherwise satisfy user needs are



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incorporated into an addendum that may be executed by the Supplier when negotiating the license agreements to be delivered to the Government. The Supplier shall either execute Attachment (26) "Addendum to End User License Agreement" as an addendum to the license being delivered or shall ensure that the license being delivered to the Government complies with the list of terms and conditions on Attachment (26) prior to delivering the licensed software.

(d) The Supplier shall provide copies of the license agreements within 60 calendar days of license purchase or at least 60 calendar days prior to delivery, whichever occurs first.

(e) A copy of the Attachment (26) "Addendum to End User License Agreement" is provided below.

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ATTACHMENT (26)
Addendum to End User License Agreement

This Addendum to the End User License Agreement (hereinafter Addendum) is made by and between ___[insert subcontractor] ___ (hereinafter licensor) and ___[insert contractor] ___ (hereinafter licensee), and is made for the purpose of supplementing the End User License Agreement (hereinafter the Agreement) for _____ [software].

The licensor and licensee agree that this Addendum will be attached to the Agreement and made a part thereof prior to transfer of the licensed software to the United States Government (hereinafter the Government) as the end product user. This Addendum shall supersede and supplement the Agreement with regard to the license rights transferred to the Government and shall not apply to the licensee.

The parties agree to review and negotiate the provisions of the Agreement in good faith to ensure compliance with Federal procurement law and, in accordance with this Addendum, to the extent provisions are inconsistent with Federal procurement law, those provisions shall be stricken from the Agreement or terminate upon transfer to the Government. Such provisions shall include but are not limited to the following list of common material terms and conditions of commercial computer software license agreements:

1. The license shall not subject the Government to the laws of a particular jurisdiction, venue or choice of law.
2. The license shall not require confession of judgment, arbitration or indemnification.
3. The license shall not comment on the entitlement to attorney fees if a matter goes to trial.
4. The license shall not attempt to have an individual other than a warranted Contracting Officer bind the Government to certain terms and conditions.
5. The license shall not be inconsistent with the Prompt Payment Act.
6. The license shall not attempt to impose a vendor lock-out provision. A vendor lock-out provision is a mechanical or electronic method imbedded in the system that prevents unauthorized use or distribution of the program. This method can result in an impermissible unilateral change to the delivery order initiated by the vendor and involve a vendor having free access to a computer system that must be secure.
7. The license shall not state that it sets forth the entire agreement between the vendor and the Government; applicable Federal laws and regulations always govern Federal contracts.
8. The license shall not impose an automatic renewal provision on the Government or the possibility of unilateral price increases.
9. The license shall not permit the vendor to unilaterally terminate the contract or license.
10. The license shall not require the Government to pay any taxes or duties.
11. The license shall not state the sole remedy available to the Government is the refund of money.
12. The license shall not be inconsistent with FAR 52.233-1, DISPUTES.
13. The license shall not create a contingent liability for the Government.
14. The license shall not restrict the Government from using the product at various sites nor from use of the product by various Government agencies or third parties performing work on behalf of the Government. In performance of the Government's requirements, Government personnel, as well as Government contractors, will use the software. Additionally, the software will be used at Government sites and Government contractor sites and the sites will change over time. The software license shall be flexible to accommodate this situation.
15. The license shall not include non-substitution language that would preclude or limit the Government from switching to another vendor/reseller and/or another product to fulfill program requirements.
16. If the commercial computer software includes open source software (OSS), the Contractor must ensure that the use of the OSS does not create, or purport to create, any Government distribution obligations with respect to the computer software deliverables unless the Government affirms that it will accept delivery under those terms.

IN WITNESS WHEREOF, the parties have caused this Addendum to be executed by their duly authorized representatives.

LICENSOR: _____
By: _____
Name: _____
Title: _____
Date: _____

LICENSEE: _____
By: _____
Name: _____
Title: _____
Date: _____

H-9 DATA RIGHTS AND LICENSES IN SUPPORT OF TEST ACTIVITIES

(Applicable to all Orders that include technical data and/or noncommercial computer software.)

(a) Verification Data, as used in this clause, is defined as Test Data and data gathered/collected in support of demonstration, analysis, similarity, inspection, and evaluation verification methods of the END ITEM SYSTEM Program. Test Data, as used in this clause, is defined as any noncommercial END ITEM SYSTEM test unique processed or unprocessed on-board or off-board system data collected or processed in support of Modeling and Simulation, laboratory integration and test activities, installed systems ground and flight test evolutions, and test reporting associated with the END ITEM SYSTEM Program. All Test Data shall be delivered in the form(s) in which the information is ordinarily maintained as true native files, meaning that metadata is intact enabling the Government the same ability as the Supplier to use, modify, reproduce, release, perform, display, or disclose the information. Metadata includes computer data such as date/created/modified/author and the hidden material that does not appear when a document is printed (e.g. hidden rows, cells and formulas, track changes, etc.).

(b) All Verification Data produced for this contract is an element of performance per DFARS 252.227-7013(b)(1)(ii) and shall be provided with unlimited rights. Any Verification Data that was not produced for this contract and/or any non-Verification Data that is delivered concurrently with the Verification Data shall be segregated as a separate annex or attachment to the Verification Data produced for this contract unless the license is Unlimited or Government Purpose Rights.

(c) The Supplier shall deliver all Verification Data collected to support requirements verification pursuant to the Verification Cross Reference Matrix associated with the END ITEM SYSTEM Statement of Work and Specification.

(d) The Supplier shall maximize the use of Government and non-proprietary tools. All Verification Data shall be collected and delivered to the Government using only:

(1) a tool the Government developed or already owns;

(2) a tool considered to be commercially available off the shelf (COTS) in accordance with FAR 2.101 and in compliance with Clause H-7 COMMERCIAL COMPUTER SOFTWARE LICENSE AGREEMENT; or

(3) a tool or plugin developed by the Supplier to which the Supplier controls the licensing and hereby agrees to provide to the United States Department of Defense (DoD), in perpetuity, rights consistent with "Government Purpose Rights" (as defined in DFARS 252.227-7013 or DFARS 252.227-7014).

(e) These tools shall provide the Government and Government contractors (with a Government purpose) an equivalent ability as that of the Supplier to operate and use these tools. These tools shall be provided in a media enabling independent Government installation and upgrades to new and existing pre-configured systems and shall include all associated computer software documentation. The licenses shall allow the Government the right to use, modify, display, manipulate, reproduce, and reinterpret the Verification Data. The price of all licenses related to (d)(3) above shall be included in the price for Item 0001. Copies of the license shall be provided for incorporation into the contract as "Contractor Provided Licenses". Any changes to the software programs identified after the time of award shall be submitted to Buyer for Government for approval.

(f) Verification Data Special License Rights.

(1) Grant of License. For all Verification Data and any other data that is provided concurrently with the Verification Data, but were developed exclusively at private expense or does not otherwise meet the criteria for unlimited rights at DFARS 252.227-7013 or DFARS 252.227-7014, the Supplier hereby agrees that the technical data and noncommercial computer software shall be delivered to the Government with the special negotiated license rights set forth in this clause and marked in accordance with the SPECIAL LICENSE RIGHTS legend set forth in DFARS 252.227-7013 or DFARS 252.227-7014. The license identifier shall be "Clause H-9."

(2) Terms of Special License. The Supplier shall provide the United States Government with special license rights consistent with "Government Purpose Rights" (as defined in DFARS 252.227-7013 or DFARS 252.227-7014) for all Verification Data technical data and noncommercial computer software subject to paragraph (e). These rights shall convert to unlimited rights (as defined in DFARS 252.227-7013 or DFARS 252.227-7014).

(g) Subcontractors and Suppliers. The Supplier shall include this clause in its subcontracts or other contractual or legal instruments with its subcontractors or suppliers at any tier.

(h) Deferred Ordering. The terms and conditions of this clause shall apply to any technical data and/or noncommercial computer software delivered under this contract pursuant to DFARS 252.227-7027.

H-12 CLARIFICATION BETWEEN INTEGRATED DIGITAL ENVIRONMENT (IDE) ENTRY, ACCESS, AND DELIVERY

(Applicable to all Orders necessary to accomplish USG access and/or IDE entry.)

(a) Definitions.

"Access" is used in this contract to describe how the Supplier publishes, divulges, or discloses "information" on the Contractors IDE. Access shall have this definition when used in this clause. Access shall also have this definition when used throughout this contract (inclusive of all exhibits and attachments) in the phrase, "provide [e.g., providing, provides, etc.] the Government with access."

"Contractor IDE" is used in this contract to describe the location to share digital information between the USG and the Supplier.

"Deliver," "Delivery," or "Deliverable" is used in this clause to mean the technical data and computer software documentation (pursuant to DFARS 252.227-7013) that is specified to be delivered, regardless of the form or medium in which it is provided, under this contract pursuant to a Contract Data Requirements List (DD Form 1423) or the computer software (pursuant to DFARS 252.227-7014) that is otherwise specified to be delivered under the contract.

"IDE entry" as used in this contract means read and write privileges and any other privileges granted within the Supplier's IDE to named users.

"Information" as used in this clause is intended to be an all-encompassing term that includes noncommercial technical data and computer software documentation, commercial technical data, and noncommercial

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computer software, which have the same definitions as set forth in DFARS clauses 252.227-7013 (FEB 2014), 252.227-7015 (FEB 2014), and 252.227-7014 (FEB 2014), respectively. Information also includes commercial computer software, as defined in DFARS 252.227-7014. Information also includes metadata attributes and data incidental to contract administration, such as management data. Information does not include financial data.

“IDE” is used in this contract to mean a shared, configuration-managed, distributed, dynamic data environment composed of common tools and interfaces. It allows data to be captured at its source and made readily available to be shared with others. The IDE integrates the people, processes, business systems, and information associated with designing, acquiring, and supporting a system and allows users connectivity to system development, sustainment, and program data. It provides immediate access to required information for making decisions.

“USG” means, for purposes of this clause only, both federal Government employees and Covered Government Support Contractor personnel (pursuant to DFARS 252.227-7013(a)(5)).

(b) Clarification between IDE Entry, Access, and Delivery.

(1) Access to information and IDE entry, in the absence of delivery, does not require the determination of Government rights in data as set forth in DFARS 227.7103-5 or the assertion of restrictions of the Government’s rights to that data as set forth in DFARS 227.7103-3.

The liberal use of deferred ordering will be exercised, where applicable, at any time that delivery of information is determined by the Government to be necessary. Deferred ordering under DFARS 252.227-7027 may be exercised by the PCO unilaterally by any authorized means for ordering technical data or computer software (e.g., a Standard Form 30 may be used to execute a unilateral modification to order technical data or computer software). The deferred order shall be delivered to the Government no later than 20 days after exercise of deferred ordering. The parties agree that fee/profit has already been accounted for regarding the generation of any information during performance of this contract, or any subcontract hereunder, and additional fee/profit for the act of converting the data or computer software into a prescribed form or for reproduction and delivery shall not be an allowable cost per FAR Part 31. Failure to deliver the information in accordance with this clause shall be subject to DFARS 252.227-7030 “Technical Data – Withholding of Payment.”

(2) USG individuals shall not be required to personally sign (including by digital signature) any agreement with the Contractor for access via the Collaborative Site or IDE entry to the Contractor’s IDE.

(3) Upon being granted access via the Supplier’s IDE, the USG individuals may use the information as permitted based on the electronic permissions (e.g., inability for information to be saved outside of the Supplier’s IDE, controlled digital access, and/or inability to reproduce information) set within the Supplier’s discretion. The electronic permissions the Supplier sets shall be consistent with the definitions of access and IDE entry above and the requirements of the contract. The burden is on the Supplier to electronically control permissions and otherwise prevent disclosure of the information. The Government shall not be liable for release or disclosure, except in cases where the Supplier can show that its access control mechanisms were willfully disregarded.

(c) Modification of Accessed Information and Information within the Supplier’s IDE

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(1) The Supplier may allow the USG to modify the information that is accessed or to which the USG has permissions by virtue of IDE entry to the Supplier's IDE, but shall not require the USG to modify any information. The Supplier shall remain obligated to meet all terms and conditions of the contract. A USG modification shall not be construed as interference with development or be the basis of a request for equitable adjustment. Decisions to permit modification of information are at the discretion of the Supplier and the requirements of the contract.

(2) Access or IDE entry shall not be contingent upon the Government relinquishing any rights pursuant to statute or regulation to which the Government would be entitled if the information were to become a deliverable later in execution. This includes rights to which the Government may have obtained by virtue of its modification to the information accessed.

(d) USG Access via the Supplier's IDE

(1) There shall be no additional costs imposed by the Supplier for the USG individuals identified by the Government to have access via the Supplier's IDE, and costs shall be charged in accordance with the Supplier's disclosure statement. FAR 52.232-39 Unenforceability of Unauthorized Obligations shall be applicable to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement that may be encountered by the USG as a result of access or IDE entry. Only the PCO has the authority to agree to any terms or conditions binding the Government; any such terms shall be set forth in writing and incorporated into this contract.

(2) It is the Supplier's responsibility to ensure it has the appropriate licenses to grant the USG access to information and permissions to any commercial data or commercial computer software within the Supplier's IDE. The Supplier shall indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorney's fees, court costs, and expenses arising out of or in any way related to any access or IDE entry later deemed to have been unauthorized.

(e) The Supplier shall insert this clause or the substance of this clause in each subcontract or other contractual or legal instruments with its subcontractors or suppliers at any tier necessary to accomplish USG access and/or IDE entry.

H-13 RIGHT TO OBTAIN INTELLECTUAL PROPERTY, EQUIPMENT, AND ASSOCIATED LICENSE RIGHTS

(Applicable to all Orders.)

(a) With regard to Subject Intellectual Property (IP) and Equipment (as defined below), the Government is granted an irrevocable, non-transferrable right to obtain Government Purpose equivalent or greater license rights from the Supplier to any Subject IP and Equipment or any part thereof. This right is exercisable as described in this clause. This right does not expire for the duration of this contract and may be exercised multiple times for the same Subject IP and Equipment or any part thereof. Each combination of Subject IP and any Equipment is considered an individual offer for sale, and changing the combination of Subject IP and any Equipment does not invalidate the Supplier's obligations under this clause.

(b) Definitions. The following terms are defined for the purpose of this clause:

"Subject IP" means any technical data and/or computer software developed exclusively at private expense provided or available under any delivery requirement under the contract.

“Equipment” means unique manufacturing processes and equipment associated with the Subject IP offered for sale or subject to transfer.

“Right of First Offer” means a contractual obligation by the owner of the Subject IP and Equipment or any part thereof, in this case the Supplier, to negotiate in good faith the sale of the Subject IP and Equipment or any part thereof with the Government before offering it for sale to third parties.

“Right of First Refusal” means a contractual right that gives the Government the option to enter into a business transaction with the owner of the Subject IP and Equipment or any part thereof, in this case the Supplier, according to specified terms, before the Supplier is entitled to enter into that transaction with a third party.

(c) The Supplier shall provide the Government with the Right of First Offer to the Subject IP and Equipment or any part thereof. The Right of First Offer shall be exercisable by the Government upon the Supplier's notice to the Government, see paragraphs (e) and (f) below, of its intention at any time to pursue transfer ownership or control of the Subject IP and Equipment or any part thereof to a third party.

(d) The Supplier shall provide the Government with the Right of First Refusal to the Subject IP and Equipment or any part thereof. The Right of First Refusal shall be exercisable by the Government upon the Supplier's notice to the Government, see paragraphs (e) and (f) below, of the occurrence of any of the following events:

- (1) Upon the filing of any judicial proceeding not subject to paragraph (d)(2) below that may result in the Supplier's transfer or loss of ownership or control of the Subject IP and Equipment or any part thereof.
- (2) Upon a voluntary or involuntary sale in a bankruptcy, insolvency, or receivership proceeding where the debtor solicits for sale any or all of its assets that would include the Subject IP and Equipment or any part thereof.
- (3) Upon the receipt of an unsolicited offer to purchase the Subject IP and Equipment or any part thereof that the Supplier intends to pursue.
- (4) Upon a voluntary or involuntary transfer of the Subject IP and Equipment or any part thereof pursuant to a security interest.

(e) The Supplier shall provide 45 days advance written notice, specifically citing this clause, to the Government of a proposed transfer of ownership or control of the any Subject IP and any Equipment. This Government's Right of First Offer or Right of First Refusal shall be exercisable by the Government for a period of 45 days from the Government's receipt of the Contractor's notification.

(f) The Supplier's notice shall specify all Subject IP and Equipment to be transferred pursuant to paragraph (c) or (d) above. In the event this notice is provided pursuant to paragraph (c) above, the Supplier shall include its proposed offer price and material terms and conditions for the transfer of ownership or control of the Subject IP and Equipment it intends to pursue transferring to a third party. In the event this notice is provided pursuant to paragraph (d) above, the Supplier shall include the acceptable material terms and conditions (including the acceptable price and form of consideration) of the transfer of ownership or control and the identity of the prospective buyer.

(g) With regard to either the Right of First Offer or Right of First Refusal, the price of the Subject IP and Equipment to be transferred shall be negotiated based on the market value or a business case analysis. Common commercial practices for the transfer of the Subject IP and Equipment shall be utilized. Should an agreement be reached, the price negotiated shall be incorporated into this contract as a firm fixed price line item via formal contract modification. Should the parties not reach agreement and the Supplier proceeds to solicit quotes in the 12 months following the abandonment of negotiations for the sale or transfer of the Subject IP and Equipment or any part thereof, then the Supplier shall not finalize such a sale or transfer and shall offer that non-negotiable price to the Government if the price is within 125 percent of the Government's last offer to the Supplier in negotiations.

(h) The Government's rights under Clause H-13 shall flow-down to any subcontractor or supplier at any tier, and the Supplier shall insert this clause in each subcontract or other contractual or legal instruments with its subcontractors or suppliers at any tier.

K-1 REQUIREMENT TO NOTIFY THE CONTRACTING OFFICER OF POTENTIAL PERSONAL OR ORGANIZATIONAL CONFLICT(S) OF INTEREST

(Applicable to all Orders.)

(a) Offerors are reminded that subparts 9.5 and 3.1 of the Federal Acquisition Regulations, as well as decisions of the Government Accountability Office, prohibit conflicts of interest in government procurements and establish the following principle: "Government business shall be conducted in a manner above reproach. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government contractor relationships." FAR 3.101.

(b) Potential conflicts of interest may arise, among other circumstances, where an Offeror has unequal access to nonpublic information relevant to the solicitation or a competitor that may provide the Offeror with an unfair competitive advantage. Such unequal access may occur through communications (e.g., verbal, written, or electronic means) with current or former Department of the Navy employees or others or through current or previous contracts that the Offeror or its subcontractors/teaming partners had with the Department of the Navy. For example, former Department of the Navy employees or subcontractors/teaming partners of the Offeror under this competitive procurement may have gained access to nonpublic information about a competitor, or that is otherwise relevant to this solicitation, through participation in previous or ongoing contracts or during the solicitation development/source selection process associated with this competitive procurement, and then participated or provided input into the formation of the Offeror's proposal. Other potential conflicts of interest may arise where subcontractors/teaming partners of the Offeror under this competitive procurement or former Department of the Navy employees who had access to or assisted in developing or drafting the evaluation criteria, specifications, or statement of work are negotiating with or employed by the Offeror, have an employment arrangement with the Offeror, or provide information to the Offeror regarding its proposal in response to this solicitation.

(c) Offerors shall notify the Buyer within 3 days of becoming aware of any communications between current or former Department of the Navy employees or others where nonpublic information concerning the current solicitation, the incumbent's approach, performance or cost information on current or previous contracts, or another competitor's proposal was discussed with or provided to the Offeror or its subcontractors/teaming partners on this competitive proposal. The Offeror shall identify the current or former Department of the Navy employees and/or others with whom the communication took place, when the communication

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occurred, and describe or provide the nonpublic information that was discussed with or provided to the Offeror. If the Offeror obtained nonpublic information relevant to the solicitation or a competitor through its or its subcontractors/teaming partners current or previous contracts they had/have with the Department of the Navy, the Offeror shall describe or provide a copy of the nonpublic information to the Contracting Officer. The Offeror shall also identify any steps take to mitigate or preclude any competitive advantage that the Offeror could have received from the communication of the nonpublic information. The requirement to identify such communications continues until contract award.

(d) The Offeror shall also inform the Buyer, within 3 days of becoming aware, of former Department of the Navy employees or subcontractors/teaming partners of the Offeror under this competitive procurement that had access to or assisted in developing or drafting the evaluation criteria, specifications, or statement of work related to this solicitation and are negotiating with or employed by the Offeror or its subcontractors/teaming partners, have an employment arrangement with the Offeror or its subcontractors/teaming partners, or provide information to the Offeror or its subcontractors/teaming partners regarding its proposal in response to this solicitation. The Offeror shall identify the former Department of the Navy employees or subcontractors/teaming partners, their employment status with the Offeror or its subcontractors/teaming partners, describe their duties with the Offeror or its subcontractors/teaming partners, and whether they have had or will have any involvement with the Offeror's proposal. The Offeror shall also identify any steps taken to mitigate or preclude any competitive advantage that the Offeror could have received. The requirement to identify former employees or subcontractors or teaming partners continues until contract award.

(e) Submission or failure to provide the information in a timely manner does not waive the Government's right to determine that a potential, apparent, or actual conflict of interest exists. If the Government determines that a potential, apparent, or actual conflict of interest exists the Offeror may be deemed ineligible to participate in the current competition. Unequal access to non-public information may be determined to create a conflict of interest. The Government reserves the right to determine which Offerors remain in the competitive range (or, if this is a FAR Part 16 Fair Opportunity source selection or other acquisition using non-FAR Part 15 procedures, which offerors to continue to negotiate with) through the normal source selection process. If the Offeror is not aware of communications addressed in paragraph (c) above or matters covered by paragraph (d) above, the Offeror shall include a statement to that effect in its response to this solicitation. This clause does not limit or expand the requirements of FAR subparts 9.5 or 3.1.

KTXT.219-9500 VERIFICATION OF ELIGIBILITY OF SMALL BUSINESS JOINT VENTURES (NAVAIR) (DEC 2022)

A small business joint venture offeror must submit, with its offer, the representation required in paragraph (c) of FAR solicitation provision 52.212-3, Offeror Representations and Certifications-Commercial Products and Commercial Services, and paragraph (c) of FAR solicitation provision 52.219-1, Small Business Program Representations, in accordance with 52.204-8(d) and 52.212-3(b) for the following categories:

- (A) Small business;
- (B) Service-disabled veteran-owned small business;
- (C) Women-owned small business (WOSB) under the WOSB Program;
- (D) Economically disadvantaged women-owned small business under the WOSB Program; or
- (E) Historically underutilized business zone small business

FAR AND DFARS CLAUSES INCORPORATED BY REFERENCE:

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) procurements	
			C	NC
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6.	X	X
52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (Oct 2010)	Applicable to all Orders when certified cost or pricing data, or data other than certified cost or pricing data, will be required.	X	X
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data-Modifications (Nov 2021) - Alternate III (Oct 1997)	Applicable to all Orders when certified cost or pricing data, or data other than certified cost or pricing data, will be required for modifications.	X	X
52.219-8	Utilization of Small Business Concerns (Oct 2022)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, that offer further subcontracting opportunities. (see FAR 52.219-9)	X	X
52.219-9	Small Business Subcontracting Plan (Oct 2022)	Applicable to Orders that are expected to exceed the threshold identified in FAR 19.702(a) on the date of subcontract/Order award (except to small business concerns) if the work under the Order will be performed at least in part in the United States or its outlying areas.	X	X
52.219-9	Small Business Subcontracting Plan (Oct 2022) - Alternate II (Nov 2016)	Applicable to Orders that are expected to exceed the threshold identified in FAR 19.702(a) on the date of subcontract/Order award (except to small business concerns) if the work under the Order will be performed at	X	X

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			C	NC
		least in part in the United States or its outlying areas.		
52.222-19	Child Labor-Cooperation with Authorities and Remedies (Deviation 2020O0019) (Dec 2022)	Applicable to Orders for the acquisition of supplies that are expected to exceed the micro-purchase thresholds.	X	X
52.222-24	Preadward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)	Applicable to anticipated first tier suppliers' Orders of \$10 million or more, other than those for construction, that are subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP).	X	X
52.222-43	Fair Labor Standards Act and Service Contract Act -- Price Adjustment (Multiple Year and Option Contracts) (Aug 2018)	Applicable to all Orders when Seller's performance includes performance in area subject to prevailing wage determinations and / pr is subject to collective bargaining agreements.	X	X
52.222-56	Certification Regarding Trafficking in Persons Compliance Plan (Oct 2020)	Applicable to Orders where it is possible that at least \$550,000 of the value of the Order may be performed outside the United States; and the acquisition is not entirely for commercially available off-the-shelf items.		
52.223-5	Pollution Prevention and Right-to-Know Information (May 2011)	Applicable to all Orders that provide for performance on a Federal facility per the terms of the clause.	X	X
52.223-5	Pollution Prevention and Right-to-Know Information - Alternate I (May 2011)	Applicable to all Orders that provide for performance on a Federal facility per the terms of the clause.	X	X
52.223-5	Pollution Prevention and Right-to-Know Information - Alternate II (May 2011)	Applicable to all Orders that provide for performance on a Federal facility per the terms of the clause.	X	X
52.223-6	Drug-Free Workplace (May 2001)	Applicable to Orders except when (i) the value of the acquisition is at or below the Simplified Acquisition Threshold, however, the requirements shall apply to contracts of any value awarded to an individual; (ii) the Order is for the acquisition of commercial items; or (iii) performance or partial performance will		X

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			C	NC
		be outside the United States and its outlying areas.		
52.223-9	Estimate of Percentage of Recovered Material Content for EPA Designated Products (May 2008)	Applicable to all Orders over \$150,000 that are for, or specify the use of, EPA-designed items containing recovered materials unless the acquisition is for commercially available off-the-shelf items. If technical personnel can verify estimates, then FAR 52.223-9 Alternate I also applies.	X	X
52.223-9	Estimate of Percentage of Recovered Material Content for EPA-Designated Products - Alternate I (May 2008)	Applicable to all Orders over \$150,000 that are for, or specify the use of, EPA-designed items containing recovered materials unless the acquisition is for commercially available off-the-shelf items. If technical personnel can verify estimates, then FAR 52.223-9 Alternate I also applies.	X	X
52.223-18	Encouraging Contractor Policies to Ban Text Messaging while Driving (May 2011)	Applicable to all Orders over the Micro-Purchase Threshold.	X	X
52.223-20	Aerosols (Jun 2020)	Applicable to Orders (i) for products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or (ii) that involve maintenance or repair of electronic or mechanical devices, except for Orders for supplies that will be delivered outside the United States and its outlying areas, or for services that will be performed outside the United States and its outlying areas.	X	X
52.225-2	Buy American Act Certificate (Feb 2021)	Applicable to all Orders also containing the clause FAR 52.225-1, and (1) with a value exceeding the micro-purchase threshold but not exceeding \$25,000; and (2) in Orders with a value exceeding \$25,000, if none of the clauses prescribed in 25.1101((b) and (c) apply, except if (i) the Order is restricted to domestic end products in accordance with subpart 6.3; (ii) the acquisition is for	X	X

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			C	NC
		supplies for use within the United States and an exception to the Buy American statute applies (e.g., nonavailability, public interest, or information technology that is a commercial product); (iii) the acquisition is for supplies for use outside the United States.		
52.225-4	Buy American Act -- Free Trade Agreements – Israeli Trade Act Certificate (May 2014)	Applicable to all Orders except for commercially available off-the-shelf items (COTS) as defined at FAR 2.101.	X	X
52.225-4	Buy American—Free Trade Agreements-Israeli Trade Act Certificate (May 2014) - Alternate I (May 2014)	Applicable to all Orders for \$25,000 or more but less than \$50,000, except for Commercially available off-the-shelf items (COTS) as defined at FAR 2.101.	X	X
52.225-4	Buy American—Free Trade Agreements-Israeli Trade Act Certificate (May 2014) - Alternate II (May 2014)	Applicable to all Orders for \$50,000 or more but less than \$83,099, except for Commercially available off-the-shelf items (COTS) as defined at FAR 2.101.	X	X
52.225-4	Buy American—Free Trade Agreements-Israeli Trade Act Certificate (May 2014) - Alternate III (May 2014)	Applicable to all Orders for \$83,099 or more but less than \$100,000, except for Commercially available off-the-shelf items (COTS) as defined at FAR 2.101.	X	X
52.225-6	Trade Agreements Certificate (May 2014)	Applicable to all Orders.	X	X
52.225-13	Restrictions on Certain Foreign Purchases (Jun 2016)	Applicable to all Orders.	X	X
52.227-1	Authorization and Consent (Feb 2021)	Applicable to all Orders over the Simplified Acquisition Threshold.	X	X
52.227-1	Authorization and Consent (Feb 2021) - Alternate I (Jun 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.	X	X
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Apr 1984)	Applicable to all Orders expected to exceed the Simplified Acquisition Threshold.	X	X

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			C	NC
52.229-12	Tax on Certain Foreign Procurements—Notice and Representation (Feb 2021)	Applicable to all Orders, including for the acquisition of commercial items, unless an exception applies and the Seller has indicated that it is a foreign person in provision 52.229-11.	X	X
52.232-16	Progress Payments (DEVIATION 2020-00010) (Mar 2020)	Applicable to Orders only when Progress Billing is expressly approved by Buyer via order specific text on the Order.	X	X
52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	Applicable to all Orders involving EULA, TOS, or similar software agreement.	X	X
52.243-2	Changes-Cost-Reimbursement (Aug 1987) - Alternate II (Apr 1984)	Applicable to cost-reimbursement Orders.	X	X
52.243-2	Changes-Cost-Reimbursement (Aug 1987) - Alternate V (Apr 1984)	Applicable to cost-reimbursement Orders.	X	X
52.246-2	Inspection of Supplies-Fixed-Price (Aug 1996) - Alternate I (Jul 1985)	Applicable to all fixed-price Orders for supplies, or services that involve the furnishing of supplies.	X	X
52.251-1	Government Supply Sources (Apr 2012)	Applicable to Orders when Buyer flows express authorization for Seller to use Government Supply Sources.	X	X
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Jan 2023)	Applicable to all Orders exceeding the simplified acquisition threshold.		X
252.203-7002	Requirement to Inform Employees of Whistleblower Rights (Dec 2022)	Applicable to all Orders.	X	X
252.204-7004	DoD Antiterrorism Awareness Training for Contractors (Jan 2023)	Applicable to all Orders, including Orders for commercial items, when Seller performance requires routine physical access to a Federally-controlled facility or military installation.	X	X
252.204-7009	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber	Applicable to all Orders for services that include support for the Government's activities related to safeguarding covered	X	X

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			C	NC
	Incident Information (Jan 2023)	defense information and cyber incident reporting.		
252.204-7010	Requirement for Contractor to Notify DoD if the Contractor's Activities are Subject to Reporting Under the US International Atomic Energy Agency Additional Protocol (Jan 2009)	Applicable to all Orders that are subject to the provisions of the U.S.-IAEA AP.	X	X
252.204-7012	Safeguarding Covered Defense Information and Cyber Incident Reporting (Dec 2019)	Applicable to all Orders for operationally critical support, or for which Order performance will involve covered defense information.	X	X
252.204-7014	Limitations on the Use or Disclosure of Information by Litigation Support Contractors (Jan 2023)	Applicable to all Orders.	X	X
252.204-7015	Notice of Authorized Disclosure of Information for Litigation Support (Jan 2023)	Applicable to all Orders.	X	X
252.204-7019	Notice of NIST SP 800-171 DoD Assessment Requirements (Mar 2022)	Applicable to all Orders, including Orders using FAR part 12 procedures for the acquisition of commercial items, except for Orders solely for the acquisition of commercially available off-the-shelf (COTS) items.	X	X
252.204-7020	NIST SP 800-171 DoD Assessment Requirements (Nov 2020)	Applicable to all Orders, including those using FAR part 12 procedures for the acquisition of commercial products and commercial services, except for those that are solely for the acquisition of COTS items.	X	X
252.209-7004	Subcontracting with Firms that are Owned or Controlled by the Government of a Country that is a State Sponsor of Terrorism (May 2019)	Applicable to Orders over \$35,000.	X	X
252.209-7006	Limitations on Contractors Acting as Lead System Integrators (Dec 2022)	Applicable to Orders when the contractor will fill the role of a lead	X	X

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			C	NC
		system integrator for the acquisition of a major system.		
252.209-7007	Prohibited Financial Interests for Lead System Integrators (Dec 2022)	Applicable to Orders that include 252.209-7006 and when the contractor will fill the role of a lead system integrator for the acquisition of a major system.	X	X
252.211-7003	Item Unique Identification and Valuation (Mar 2016)	Applicable to all Orders. Seller's obligations under this clause are limited to cooperating with Buyer's efforts to comply with this clause, including granting Buyer access to Seller's deliverables at its facilities and to appropriate property records.	X	X
252.215-7008	Only One Offer (Dec 2022)	Applicable to all Orders exceeding the simplified acquisition threshold defined in FAR part 2, for the acquisition of commercial products and services.	X	
252.217-7016	Plant Protection (Dec 1991)	Applicable to Orders for, and in, master agreements for repair and alteration of vessels.	X	X
252.222-7006	Restrictions on the Use of Mandatory Arbitration Agreements (Jan 2023)	Applicable to Orders over \$1 million except Orders for the acquisition of commercial items, including commercially available off-the-shelf items.		X
252.223-7004	Drug-Free Work Force (Sep 1988)	Applicable to Orders except when (i) performance or partial performance will be outside the United States and its outlying areas. (ii) the value of the acquisition is at or below the Simplified Acquisition Threshold, or (iii) the Order is for Commercial Items.		X
252.225-7001	Buy American and Balance of Payments Program (Jan 2023)	Applicable to all Orders except Orders for commercially available off-the-shelf items (COTS) as defined at FAR 2.101. Seller must deliver goods that contain more than 50% United States or Qualifying Country content pursuant to the clause.	X	X

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			C	NC
252.225-7003	Report of Intended Performance Outside the United States and Canada— Submission with Offer (Nov 2014)	Applicable to all Orders having a value of greater than \$700,000 and the work in could be performed inside the United States or Canada. Seller agrees to immediately inform Buyer if any part of the Order will be performed outside the United States and Canada.	X	X
252.225-7009	Restriction on Acquisition of Certain Articles Containing Specialty Metals (Mar 2013)	Applicable to all Orders for items containing specialty metals to ensure compliance of the end products that Buyer will deliver to the Government.	X	X
252.225-7012	Preference for Certain Domestic Commodities (Jan 2023)	Applicable to all Orders, including those using FAR part 12 procedures for the acquisition of commercial items.	X	X
252.225-7016	Restriction on Acquisition of Ball and Roller Bearings (Apr 2022)	Applicable to all Orders for Goods that contain ball or roller bearings, except those that are for commercial items.		X
252.225-7050	Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism (Sep 2021)	Applicable if the estimated Order value is \$150,000 or more.	X	X
252.226-7001	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Jan 2023)	Applicable to all Orders exceeding \$500,000.	X	X
252.227-7015	Technical Data—Commercial Items (Jan 2023)	Applicable to all Orders whenever any technical data related to commercial items developed in any part at private expense will be provided under the Order for delivery to the Government.	X	X
252.227-7016	Rights in Bid or Proposal Information (Jan 2023)	Applicable to all Orders.	X	X
252.227-7025	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (Jan 2023)	Applicable to all Orders.		X

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			C	NC
252.227-7037	Validation of Restrictive Markings on Technical Data (Jan 2023)	Applicable to all Orders requiring the delivery of technical data.	X	X
252.227-7038	Patent Rights—Ownership by the Contractor (Large Business) (Jun 2012) - Alternate II (DEC 2007)	Applicable to all Orders for experimental, developmental, or research work if the Seller is not a small business or nonprofit organization, unless a different patent rights clause is required by FAR 27.303.		X
252.228-7005	Mishap Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (Nov 2019)	Applicable to all Orders for aircraft, missile, or space launch vehicles being manufactured, modified, repaired, or overhauled. Seller must cooperate and assist Buyer in accident investigations.	X	X
252.232-7017	Accelerating Payments to Small Business Subcontractors— Prohibition on Fees and Consideration (Jan 2023)	Applicable to Orders with small business concerns when Buyer receives Accelerated Payments under its prime contract.	X	X
252.234-7003	Notice of Cost and Software Data Reporting System--Basic (Nov 2014)	Applicable to Orders at any tier that exceed \$50 million.	X	X
252.234-7004	Cost and Software Data Reporting System (Nov 2014)	Applicable to Orders that exceed \$50 million.	X	X
252.235-7003	Frequency Authorization - Alternate I (Mar 2014)	Applicable to all Orders requiring the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.	X	X
252.235-7010	Acknowledgment of Support and Disclaimer (May 1995)	Applicable to all Orders for research and development.		X
252.239-7001	Information Assurance Contractor Training and Certification (Jan 2008)	Applicable to all Orders involving Seller performance of information assurance functions as described in DoD 8570.01-M.	X	X
252.239-7017	Notice of Supply Chain Risk (Dec 2022)	Applicable to all Orders that involve the development or delivery of any information technology whether acquired as a service or as a supply.	X	X
252.244-7000	Subcontracts for Commercial Items and Commercial	Applicable to all Orders.	X	X

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			C	NC
	Components (DoD Contracts) (Jan 2023)			
252.246-7001	Warranty of Data - Alternate I (Mar 2014)	Applicable to Orders when Buyer will be required to deliver to the Government Seller's technical data pertaining to noncommercial items, or pertaining to commercial items for which the Government will have paid for any portion of the development costs.	X	X
252.246-7003	Notification of Potential Safety Issues (Jan 2023)	Applicable to all Orders for (i) parts defined as critical safety items in accordance with this clause; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; and (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system.	X	X
252.246-7007	Contractor Counterfeit Electronic Part Detection and Avoidance System (Jan 2023)	Applicable to all Orders when the goods or services include electronic parts or assemblies containing electronic parts. This clause applies to all Sellers, at all tiers, without regard to whether the Seller itself is subject to CAS.	X	X
252.246-7008	Sources of Electronic Parts (Jan 2023)	Applicable to all Orders for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer.	X	X
252.247-7023	Transportation of Supplies by Sea (Jan 2023)	Applicable if the Seller is transporting supplies by sea under this Order and (i) This Order is a construction contract; or (ii) The supplies being transported are— (A) Noncommercial items; or (B) Commercial items that— (1) The Seller is reselling or distributing to the Government without adding value (generally, the Seller does not add value to items that it subcontracts for f.o.b. destination shipment); (2) Are shipped in direct support of U.S. military contingency operations, exercises, or	X	X

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Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)	Applies to Commercial (C) and/or Non-Commercial (NC) procurements	
			C	NC
		forces deployed in humanitarian or peacekeeping operations; or (3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.		
252.249-7002	Notification of Anticipated Contract Termination or Reduction (Dec 2022)	Applicable to all Orders of \$700,000 or more. Seller shall (i) Provide notice to each of its subcontractors with a subcontract of \$150,000 or more; and (ii) Impose a similar notice and flowdown requirement to subcontractors with subcontracts of \$150,000 or more.	X	X
252.251-7000	Ordering From Government Supply Sources (Aug 2012)	Applicable to Orders when (i) Seller's performance is listed on a Government Supply Source list and (ii) such performance may be purchased pursuant to Government authorization and (iii) Buyer expressly includes such authorization via order specific text on the Order.	X	X

FAR, DFARS AND SPECIAL AGENCY CLAUSES INCORPORATED BY FULL TEXT:

52.204-24 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (OCT 2020)

(Supply chain should obtain the representation set out in this provision from suppliers that will be providing covered telecommunications equipment or services as defined in the clause. Applies to Commercial and Non-Commercial procurements.)

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at 52.204-26, Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at 52.212-3, Offeror Representations and Certifications-Commercial Items. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at 52.204-26, or in paragraph (v)(2)(ii) of the provision at 52.212-3.

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(a) Definitions. As used in this provision—

Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component have the meanings provided in the clause 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) Prohibition.

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) Procedures. The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) Representation. The Offeror represents that—

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(1) It **will**, **will not** provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It **does**, **does not** use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) Disclosures. (1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

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(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

52.204-27 PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)

(Applicable to all Orders. Applies to commercial and non-commercial procurements.)

(a) Definitions. As used in this clause—

Covered application means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

Information technology, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

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(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) Prohibition. Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)

52.209-6 PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (NOV 2021)

(Applicable to Orders exceeding \$35,000 or the dollar threshold in effect as of the date of the prime contract, except for Orders for commercially available off-the-shelf items. Applies to Commercial and Non-Commercial procurements.)

(a) Definition.

Commercially available off-the-shelf (COTS) item, as used in this clause—

(1) Means any item of supply (including construction material) that is—

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in Federal Acquisition Regulation (FAR) 2.101);

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

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

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

(b) The Government suspends or debar Contractors to protect the Government's interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of the threshold specified in FAR 9.405-2(b) on the date of subcontract award, with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed the threshold specified in FAR 9.405-2(b) on the date of subcontract award, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(e) Subcontracts. Unless this is a contract for the acquisition of commercial products or commercial services, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—

(1) Exceeds the threshold specified in FAR 9.405-2(b) on the date of subcontract award; and

(2) Is not a subcontract for commercially available off-the-shelf items.

(End of clause)

52.215-13 SUBCONTRACTOR CERTIFIED COST OR PRICING DATA—MODIFICATIONS (DEVIATION 2022-00001) (OCT 2021)

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(Applicable to Purchase Orders that exceed \$2 million on the date of agreement on price or the date of award, whichever is later. This clause does not apply to Purchase Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1(b), and only applies if FAR 52.215-11 is included. Applies to Non-Commercial procurements only.)

(a) The requirements of paragraphs (b) and (c) of this clause shall—

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed \$2 million on the date of execution of the modification; and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed \$2 million, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed \$2 million, the Contractor shall require the subcontractor to submit certified cost or pricing data (actually or by specific identification in writing), in accordance with Federal Acquisition Regulation (FAR) 15.408, Table 15-2 (to include any information reasonably required to explain the subcontractor's estimating process such as the judgmental factors applied and the mathematical or other methods used in the estimate, including those used in projecting from known data, and the nature and amount of any contingencies included in the price), unless an exception under FAR 15.403-1(b) applies. If the \$2 million threshold for submission of certified cost or pricing data is adjusted for inflation as set forth in FAR 1.109(a), then pursuant to FAR 1.109(d) the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds \$2 million on the date of agreement on price or the date of award, whichever is later.

(End of clause)

52.216-7 ALLOWABLE COST AND PAYMENT (AUG 2018)

(Applicable to Cost Reimbursement or Time & Material Purchase Orders. Seller must execute assignment documents in accordance with requirements in the clause. Applies to Non-Commercial procurements only).

(a) Invoicing.

(1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form

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and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232-25.

(3) The designated payment office will make interim payments for contract financing on the _____ [Contracting Officer insert day as prescribed by agency head; if not prescribed, insert "30th"] day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request 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.

(b) Reimbursing costs.

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of this clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only—

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for—

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made—

(1) In accordance with the terms and conditions of a subcontract or invoice;
and

(2) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

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(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of financing payments that have been paid by cash, check, or other forms of payment to subcontractors.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless—

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) *Small business concerns.* A small business concern may receive more frequent payments than every 2 weeks.

(d) Final indirect cost rates.

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(iii) An adequate indirect cost rate proposal shall include the following data unless otherwise specified by the cognizant Federal agency official:

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(A) Summary of all claimed indirect expense rates, including pool, base, and calculated indirect rate.

(B) *General and Administrative expenses (final indirect cost pool)*. Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts).

(C) *Overhead expenses (final indirect cost pool)*. Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) for each final indirect cost pool.

(D) *Occupancy expenses (intermediate indirect cost pool)*. Schedule of claimed expenses by element of cost as identified in accounting records (Chart of Accounts) and expense reallocation to final indirect cost pools.

(E) Claimed allocation bases, by element of cost, used to distribute indirect costs.

(F) Facilities capital cost of money factors computation.

(G) Reconciliation of books of account (*i.e.*, General Ledger) and claimed direct costs by major cost element.

(H) Schedule of direct costs by contract and subcontract and indirect expense applied at claimed rates, as well as a subsidiary schedule of Government participation percentages in each of the allocation base amounts.

(I) Schedule of cumulative direct and indirect costs claimed and billed by contract and subcontract.

(J) *Subcontract information*. Listing of subcontracts awarded to companies for which the contractor is the prime or upper-tier contractor (include prime and subcontract numbers; subcontract value and award type; amount claimed during the fiscal year; and the subcontractor name, address, and point of contact information).

(K) Summary of each time-and-materials and labor-hour contract information, including labor categories, labor rates, hours, and amounts; direct materials; other direct costs; and, indirect expense applied at claimed rates.

(L) Reconciliation of total payroll per IRS form 941 to total labor costs distribution.

(M) Listing of decisions/agreements/approvals and description of accounting/organizational changes.

(N) Certificate of final indirect costs (see [52.242-4](#), Certification of Final Indirect Costs).

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(O) Contract closing information for contracts physically completed in this fiscal year (include contract number, period of performance, contract ceiling amounts, contract fee computations, level of effort, and indicate if the contract is ready to close).

(iv) The following supplemental information is not required to determine if a proposal is adequate, but may be required during the audit process:

(A) Comparative analysis of indirect expense pools detailed by account to prior fiscal year and budgetary data.

(B) General organizational information and limitation on allowability of compensation for certain contractor personnel. See 31.205-6(p). Additional salary reference information is available at <https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedBeforeJune24.pdf> and <https://www.whitehouse.gov/wp-content/uploads/2017/11/ContractorCompensationCapContractsAwardedafterJune24.pdf>.

(C) Identification of prime contracts under which the contractor performs as a subcontractor.

(D) Description of accounting system (excludes contractors required to submit a CAS Disclosure Statement or contractors where the description of the accounting system has not changed from the previous year's submission).

(E) Procedures for identifying and excluding unallowable costs from the costs claimed and billed (excludes contractors where the procedures have not changed from the previous year's submission).

(F) Certified financial statements and other financial data (e.g., trial balance, compilation, review, etc.).

(G) Management letter from outside CPAs concerning any internal control weaknesses.

(H) Actions that have been and/or will be implemented to correct the weaknesses described in the management letter from subparagraph (G) of this section.

(I) List of all internal audit reports issued since the last disclosure of internal audit reports to the Government.

(J) Annual internal audit plan of scheduled audits to be performed in the fiscal year when the final indirect cost rate submission is made.

(K) Federal and State income tax returns.

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(L) Securities and Exchange Commission 10-K annual report.

(M) Minutes from board of directors meetings.

(N) Listing of delay claims and termination claims submitted which contain costs relating to the subject fiscal year.

(O) Contract briefings, which generally include a synopsis of all pertinent contract provisions, such as: contract type, contract amount, product or service(s) to be provided, contract performance period, rate ceilings, advance approval requirements, pre-contract cost allowability limitations, and billing limitations.

(v) The Contractor shall update the billings on all contracts to reflect the final settled rates and update the schedule of cumulative direct and indirect costs claimed and billed, as required in paragraph (d)(2)(iii)(l) of this section, within 60 days after settlement of final indirect cost rates.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates, (ii) the bases to which the rates apply, (iii) the periods for which the rates apply, (iv) any specific indirect cost items treated as direct costs in the settlement, and (v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates. The completion invoice or voucher shall include settled subcontract amounts and rates. The prime contractor is responsible for settling subcontractor amounts and rates included in the completion invoice or voucher and providing status of subcontractor audits to the contracting officer upon request.

(6)(i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(5) of this clause, the Contracting Officer may—

(A) Determine the amounts due to the Contractor under the contract; and

(B) Record this determination in a unilateral modification to the contract.

(ii) This determination constitutes the final decision of the Contracting Officer in accordance with the Disputes clause.

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(e) *Billing rates.* Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates—

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) *Quick-closeout procedures.* Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) *Audit.* At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be—

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) Final payment.

(1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver—

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except—

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

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(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

52.216-17 INCENTIVE PRICE REVISION-SUCCESSIVE TARGETS (JAN 2022)

(Applicable to fixed-price incentive (successive targets) Orders. Applies to Non-Commercial procurements only.)

(a) General. The supplies or services identified in the Schedule as Items Option CLINs 0201, 0301, 0401, and 0501 are subject to price revision in accordance with this clause; provided, that in no event shall the total final price of these items exceed the ceiling price of dollars (\$130 percent of each CLINs initial target cost).

The prices of these items shown in the Schedule are the initial target prices, which include an initial target profit of 15 percent of the initial target cost. Any supplies or services that are to be-

(1) Ordered separately under, or otherwise added to, this contract; and

(2) Subject to price revision in accordance with this clause shall be identified as such in a modification to this contract.

(b) Definition. "Costs," as used in this clause, means allowable costs in accordance with part 31 of the Federal Acquisition Regulation (FAR) in effect on the date of this contract.

(c) Submitting data for establishing the firm fixed price or a final profit adjustment formula. (1) Within 60 days after the end of the month in which the Contractor has completed (Refer to Clause B-1(b)) (see Note 1), the Contractor shall submit the following data:

(i) A proposed firm fixed price or total firm target price for supplies delivered and to be delivered and services performed and to be performed.

(ii) A detailed statement of all costs incurred in the performance of this contract through the end of the month specified above, in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties may agree), with sufficient supporting data to disclose unit costs and cost trends for-

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(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary).

(iii) An estimate of costs of all supplies delivered and to be delivered and all services performed and to be performed under this contract, using the statement of costs incurred plus an estimate of costs to complete performance, in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties may agree), together with-

(A) Sufficient data to support the accuracy and reliability of the estimate; and

(B) An explanation of the differences between this estimate and the original estimate used to establish the initial target prices.

(2) The Contractor shall also submit to the extent that it becomes available before negotiations establishing the total firm price are concluded-

(i) Supplemental statements of costs incurred after the end of the month specified in paragraph (1) of this section for-

(A) Supplies delivered and services performed; and

(B) Inventories of work in process and undelivered contract supplies on hand (estimated to the extent necessary); and

(ii) Any other relevant data that the Contracting Officer may reasonably require.

(3) If the Contractor fails to submit the data required by paragraphs (c)(1) and (2) of this section within the time specified and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the data submittal period, the amount of the excess shall bear interest, computed from the date the data were due to the date of repayment, at the rate established in accordance with the Interest clause.

(d) Establishing firm fixed price or final profit adjustment formula. Upon the Contracting Officer's receipt of the data required by paragraph (c) of this section, the Contracting Officer and the Contractor shall promptly establish either a firm fixed price or a profit adjustment formula for determining final profit, as follows:

(1) The parties shall negotiate a total firm target cost, based upon the data submitted under paragraph (c) of this section.

(2) If the total firm target cost is more than the total initial target cost, the total initial target profit shall be decreased. If the total firm target cost is less than the total initial target cost, the total initial target profit shall be increased. The initial target profit shall be increased or decreased by (See Clause B-1(c)(3))percent (see Note 2) of the difference between the total initial target cost and the total firm target cost. The resulting amount shall be the total firm target profit; provided, that in no event shall the total firm target profit be less than (See Clause B-1(c)(3)) percent or more than (See Clause B-1(c)(3)) percent of the total initial cost.

(3) If the total firm target cost plus the total firm target profit represent a reasonable price for performing that part of the contract subject to price revision under this clause, the parties may agree on a firm fixed price, which shall be evidenced by a contract modification signed by the Contractor and the Contracting Officer.

(4) Failure of the parties to agree to a firm fixed price shall not constitute a dispute under the Disputes clause. If agreement is not reached, or if establishment of a firm fixed price is inappropriate, the Contractor and the Contracting Officer shall establish a profit adjustment formula under which the total final price shall be established by applying to the total final negotiated cost an adjustment for profit or loss, determined as follows:

(i) If the total final negotiated cost is equal to the total firm target cost, the adjustment is the total firm target profit.

(ii) If the total final negotiated cost is greater than the total firm target cost, the adjustment is the total firm target profit, less (See Clause B-1(c)(4)) percent of the amount by which the total final negotiated cost exceeds the total firm target cost.

(iii) If the total final negotiated cost is less than the total firm target cost, the adjustment is the total firm target profit, plus 50 percent (for Option Item 0201); 60 percent (for Option Items 0301); and (for Option Items 0401, and 0501) 40 percent of the amount by which the total final negotiated cost is less than the total firm target cost.

(iv) The total firm target cost, total firm target profit, and the profit adjustment formula for determining final profit shall be evidenced by a modification to this contract signed by the Contractor and the Contracting Officer.

(e) Submitting data for final price revision. Unless a firm fixed price has been established in accordance with paragraph (d) of this section within 60 days after the end of the month in which the Contractor has delivered the last unit of supplies and completed the services specified by item number in paragraph (a) of this section, the Contractor shall submit in the format of Table 15-2, FAR 15.408 (or in any other form on which the parties agree)-

(1) A detailed statement of all costs incurred up to the end of that month in performing all work under the items;

(2) An estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items;

(3) A list of all residual inventory and an estimate of its value; a

(4) Any other relevant data that the Contracting Officer may reasonably require.

(f) Final price revision. Unless a firm fixed price has been agreed to in accordance with paragraph (d) of this section, the Contractor and the Contracting Officer shall, promptly after submission of the data required by paragraph (e) of this section, establish the total final price, as follows:

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(1) On the basis of the information required by paragraph (e) of this section, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for the supplies delivered (or services performed) and accepted by the Government and which are subject to price revision under this clause.

(2) The total final price shall be established by applying to the total final negotiated cost an adjustment for final profit or loss determined as agreed upon under paragraph (d)(4) of this section.

(g) Contract modification. The total final price of the items specified in paragraph (a) of this section shall be evidenced by a modification to this contract, signed by the Contractor and the Contracting Officer. This price shall not be subject to revision, notwithstanding any changes in the cost of performing the contract, except to the extent that-

(1) The parties may agree in writing, before the determination of total final price, to exclude specific elements of cost from this price and to a procedure for subsequent disposition of these elements; and

(2) Adjustments or credits are explicitly permitted or required by this or any other clause in this contract.

(h) Adjustment of billing prices. (1) Pending execution of the contract modification (see paragraph (e) of this section), the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the initial target prices shown in this contract until firm target prices are established under paragraph (d) of this section. When established, the firm target prices shall be used as the billing prices.

(2) If at any time it appears from information provided by the contractor under paragraph (i)(1) of this section that the then-current billing prices will be substantially greater than the estimated final prices, the parties shall negotiate a reduction in the billing prices. Similarly, the parties may negotiate an increase in billing prices by any or all of the difference between the target prices and the ceiling price, upon the Contractor's submission of factual data showing that the final cost under this contract will be substantially greater than the target cost.

(3) Any adjustment of billing prices shall be reflected in a contract modification and shall not affect the determination of any price under paragraph (d) or (f) of this section. After the contract modification establishing the total final price is executed, the total amount paid or to be paid on all invoices or vouchers shall be adjusted to reflect the total final price, and any resulting additional payments, refunds, or credits shall be made promptly.

(i) Quarterly limitation on payments statement. This paragraph (i) shall apply until a firm fixed price or a total final price is established under paragraph (d)(3) or (f)(2).

(1) Within 45 days after the end of each quarter of the Contractor's fiscal year in which a delivery is first made (or services are first performed) and accepted by the Government under this contract, and for each quarter thereafter, the Contractor shall submit to the contract administration office (with a copy to the contracting office and the cognizant contract auditor) a statement, cumulative from the beginning of the contract, showing-

(i) The total contract price of all supplies delivered (or services performed) and accepted by the Government and for which final prices have been established;

(ii) The total cost (estimated to the extent necessary) reasonably incurred for, and properly allocable solely to, the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established;

(iii) The portion of the total interim profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (i)) that is in direct proportion to the supplies delivered (or services performed) and accepted by the Government and for which final prices have not been established-increased or decreased in accordance with paragraph (d)(4) of this section when the amount stated under subdivision (ii) of this section, differs from the aggregate firm target costs of the supplies or services; and

(iv) The total amount of all invoices or vouchers for supplies delivered (or services performed) and accepted by the Government (including amounts applied or to be applied to liquidate progress payments).

(2) Notwithstanding any provision of this contract authorizing greater payments, if on any quarterly statement the amount under subdivision (i)(1)(iv) of this section exceeds the sum due the Contractor, as computed in accordance with subdivisions (i)(1)(i), (ii), and (iii) of this section, the Contractor shall immediately refund or credit to the Government the amount of this excess. The Contractor may, when appropriate, reduce this refund or credit by the amount of previous refunds or credits effected under this clause. If any portion of the excess has been applied to the liquidation of progress payments, then that portion may, instead of being refunded, be added to the unliquidated progress payment account consistent with the Progress Payments clause. The Contractor shall provide complete details to support any claimed reductions in refunds.

(3) If the Contractor fails to submit the quarterly statement within 45 days after the end of each quarter and it is later determined that the Government has overpaid the Contractor, the Contractor shall repay the excess to the Government immediately. Unless repaid within 30 days after the end of the statement submittal period, the amount of the excess shall bear interest, computed from the date the quarterly statement was due to the date of repayment, at the rate established in accordance with the Interest clause.

(j) Subcontracts. No subcontract placed under this contract may provide for payment on a cost-plus-a-percentage-of-cost basis.

(k) Disagreements. If the Contractor and the Contracting Officer fail to agree upon (1) a total firm target cost and a final profit adjustment formula or (2) a total final price, within 60 days (or within such other period as the Contracting Officer may specify) after the date on which the data required in paragraphs (c) and (e) of this section are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(l) Termination. If this contract is terminated before the total final price is established, prices of supplies or services subject to price revision shall be established in accordance with this clause for (1) completed supplies and services accepted by the Government and (2) those supplies or services not terminated

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under a partial termination. All other elements of the termination shall be resolved in accordance with other applicable clauses of this contract.

(m) Equitable adjustments under other clauses. If an equitable adjustment in the contract price is made under any other clause of this contract before the total final price is established, the adjustment shall be made in the total target cost and may be made in the maximum dollar limit on the total final price, the total target profit, or both. If the adjustment is made after the total final price is established, only the total final price shall be adjusted.

(n) Exclusion from target price and total final price. If any clause of this contract provides that the contract price does not or will not include an amount for a specific purpose, then neither any target price nor the total final price includes or will include any amount for that purpose.

(o) Separate reimbursement. If any clause of this contract expressly provides that the cost of performance of an obligation shall be at Government expense, that expense shall not be included in any target price or in the total final price but shall be reimbursed separately.

(p) Taxes. As used in the Federal, State, and Local Taxes clause or in any other clause that provides for certain taxes or duties to be included in, or excluded from, the contract price, the term "contract price" includes the total target price or, if it has been established, the total final price. When any of these clauses requires that the contract price be increased or decreased as a result of changes in the obligation of the Contractor to pay or bear the burden of certain taxes or duties, the increase or decrease shall be made in the total target price or, if it has been established, in the total final price, so that it will not affect the Contractor's profit or loss on this contract.

Notes:

(1) The degree of completion may be based on a percentage of contract performance or any other reasonable basis.

(2) The language may be changed to describe a negotiated adjustment pattern under which the extent of adjustment is not the same for all levels of cost variation.

(End of clause)

52.216-17 INCENTIVE PRICE REVISION-SUCCESSIVE TARGETS (JAN 2022) - Alternate I (Apr 1984)

(Applicable to fixed-price incentive (successive targets) Orders. Applies to Non-Commercial procurements only.)

(q) Provisioning and options. Parts, other supplies, or services that are to be furnished under this contract on the basis of a provisioning document or Government option shall be subject to price revision in accordance with this clause. Any prices established for these parts, other supplies, or services under a provisioning document or Government option shall be treated as initial target prices, or target prices as agreed upon and stipulated in the pricing document supporting the provisioning or added items. Initial or

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firm target costs and profits and final prices covering these parts, other supplies, or services may be established separately, in the aggregate, or in any combination, as the parties may agree.

52.223-1 BIOBASED PRODUCT CERTIFICATION (MAY 2012)

(Applicable to Purchase Orders that (1) require the delivery or specify the use of USDA-designated items; or (2) Include the clause at 52.223-2. Not applicable to services. Applies to Commercial and Non-Commercial procurements.)

As required by the Farm Security and Rural Investment Act of 2002 and the Energy Policy Act of 2005 (7 U.S.C. 8102(c)(3)), the offeror certifies, by signing this offer, that biobased products (within categories of products listed by the United States Department of Agriculture in 7 CFR part 3201, subpart B) to be used or delivered in the performance of the contract, other than biobased products that are not purchased by the offeror as a direct result of this contract, will will not comply with the applicable specifications or other contractual requirements.

(End of provision)

52.223-4 RECOVERED MATERIAL CERTIFICATION (MAY 2008)

(Applicable to Purchase Orders, except for commercially available off-the-shelf-items, that (1) Require the delivery or specify the use of EPA-designated items; or (2) Include the clause at 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts. Applies to Commercial and Non-Commercial procurements).

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, by signing this offer, that the percentage of recovered materials content for EPA-designated items to be delivered or used in the performance of the contract will be will not be at least the amount required by the applicable contract specifications or other contractual requirements.

(End of provision)

52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(Applicable to all Orders. Seller shall notify Buyer if any goods under this Order contain any of the material as described in the clause. Insert 45 days in the blank in paragraph (a) of the clause unless otherwise indicated in the Order.)

(a) The Contractor shall notify the Contracting Officer or designee, in writing, 180 *days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01

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microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the Contractor which will put users of the items on notice as to the hazards involved (OMB No.9000-0107).

* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall-

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

(End of clause)

52.225-20 PROHIBITION ON CONDUCTING RESTRICTED BUSINESS OPERATIONS IN SUDAN—CERTIFICATION (AUG 2009)

(Applicable to Purchase Orders for the acquisition of products or services (other than commercial items procured under Part 12. Applies to Non-Commercial procurements only.)

(a) Definitions. As used in this provision—

“Business operations” means engaging in commerce in any form, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

“Marginalized populations of Sudan” means—

(1) Adversely affected groups in regions authorized to receive assistance under section 8(c) of the Darfur Peace and Accountability Act (Pub. L. 109-344) ([50 U.S.C. 1701 note](#)); and

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(2) Marginalized areas in Northern Sudan described in section 4(9) of such Act.

“Restricted business operations” means business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment, as those terms are defined in the Sudan Accountability and Divestment Act of 2007 (Pub. L. 110-174). Restricted business operations do not include business operations that the person (as that term is defined in Section 2 of the Sudan Accountability and Divestment Act of 2007) conducting the business can demonstrate—

- (1) Are conducted under contract directly and exclusively with the regional government of southern Sudan;
- (2) Are conducted pursuant to specific authorization from the Office of Foreign Assets Control in the Department of the Treasury, or are expressly exempted under Federal law from the requirement to be conducted under such authorization;
- (3) Consist of providing goods or services to marginalized populations of Sudan;
- (4) Consist of providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;
- (5) Consist of providing goods or services that are used only to promote health or education; or
- (6) Have been voluntarily suspended.

(b) Certification. By submission of its offer, the offeror certifies that the offeror **does not** **does** conduct any restricted business operations in Sudan.

(End of provision)

52.225-25 Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (Jun 2020)

(Applicable to all Purchase Orders).

(a) *Definitions.* As used in this provision-

Person—

(1) Means—

- (i) A natural person;
- (ii) A corporation, business association, partnership, society, trust, financial institution, insurer, underwriter, guarantor, and any other business organization, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise; and

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(iii) Any successor to any entity described in paragraph (1)(ii) of this definition; and

(2) Does not include a government or governmental entity that is not operating as a business enterprise.

Sensitive technology-

(1) Means hardware, software, telecommunications equipment, or any other technology that is to be used specifically-

(i) To restrict the free flow of unbiased information in Iran; or

(ii) To disrupt, monitor, or otherwise restrict speech of the people of Iran; and

(2) Does not include information or informational materials the export of which the President does not have the authority to regulate or prohibit pursuant to section 203(b)(3) of the International Emergency Economic Powers Act ([50 U.S.C. 1702\(b\)\(3\)](#)).

(b) The offeror shall e-mail questions concerning sensitive technology to the Department of State at CISADA106@state.gov.

(c) Except as provided in paragraph (d) of this provision or if a waiver has been granted in accordance with Federal Acquisition Regulation (FAR) [25.703-4](#), by submission of its offer, the offeror—

(1) Represents, to the best of its knowledge and belief, that the offeror does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(2) Certifies that the offeror, or any person owned or controlled by the offeror, does not engage in any activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act. These sanctioned activities are in the areas of development of the petroleum resources of Iran, production of refined petroleum products in Iran, sale and provision of refined petroleum products to Iran, and contributing to Iran's ability to acquire or develop certain weapons or technologies; and

(3) Certifies that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any transaction that exceeds the threshold at FAR [25.703-2\(a\)\(2\)](#) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at <https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

(d) *Exception for trade agreements.* The representation requirement of paragraph (c)(1) and the certification requirements of paragraphs (c)(2) and (c)(3) of this provision do not apply if-

(1) This solicitation includes a trade agreements notice or certification (e.g., [52.225-4](#), [52.225-6](#), [52.225-12](#), [52.225-24](#), or comparable agency provision); and

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(2) The offeror has certified that all the offered products to be supplied are designated country end products or designated country construction material.

(End of provision)

52.244-2 SUBCONTRACTS (JUN 2020)

(Paragraphs (g) and (h) of the clause are applicable to all Purchase Orders. Applies to Commercial and Non-Commercial procurements).

(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, as defined in FAR 2.101 on the date of subcontract award, 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, as defined in FAR 2.101 on the date of subcontract award, 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:

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- (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.

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(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: N/A

(End of clause)

52.244-2 SUBCONTRACTS (JUN 2020) – ALTERNATE I (JUN 2020)

(Applicable to cost-reimbursement Purchase Orders. Paragraphs (g) and (h) of the clause are applicable to all Purchase Orders. Applies to Commercial and Non-Commercial procurements).

(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, as defined in FAR 2.101 on the date of subcontract award, 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, as defined in FAR 2.101 on the date of subcontract award, or 5 percent of the total estimated cost of the contract.

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(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

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(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) 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, as defined in FAR [2.101](#) on the date of subcontract award, or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (e)(1)(i) through (iv) 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: N/A

(End of clause)

52.246-11 HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (DEC 2014)

(Applicable to all Purchase Orders for critical and complex items (see FAR 46.203(b) and (c)); or (2) When the technical requirements of a Purchase Order require-- (i) Control of such things as design, work operations, in-process control, testing, and inspection; or (ii) Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology. Applies to Commercial and Non-Commercial procurements.)

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(a) The Contractor shall comply with the higher-level quality standard(s) listed below.

Subcontract Statement of Work [Contracting Officer insert the title, number (if any), date, and tailoring (if any) of the higher-level quality standards.]

(b) The Contractor shall include applicable requirements of the higher-level quality standard(s) listed in paragraph (a) of this clause and the requirement to flow down such standards, as applicable, to lower-tier subcontracts, in—

- (1) Any subcontract for critical and complex items (see 46.203(b) and (c)); or
- (2) When the technical requirements of a subcontract require—
 - (i) Control of such things as design, work operations, in-process control, testing, and inspection; or
 - (ii) Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology.

(End of clause)

52.248-1 VALUE ENGINEERING (JUN 2020)

(Applicable to Purchase Orders at or above the simplified acquisition threshold. Applies to Commercial and Non-Commercial procurements).

(a) *General.* The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) of this clause.

(b) *Definitions.*

Acquisition savings, as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include-

- (1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;
- (2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and
- (3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

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Collateral savings, as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

Contracting office includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

Contractor's development and implementation costs, as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

Future unit cost reduction, as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either-

- (1) Throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated; or
- (2) To the calculation of a lump-sum payment, which cannot later be revised.

Government costs, as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

Instant contract, as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

Instant unit cost reduction means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

Negative instant contract savings means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

Net acquisition savings means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

Sharing base, as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

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Sharing period, as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

Unit, as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

Value engineering change proposal (VECP) means a proposal that-

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; *provided*, that it does not involve a change-
 - (i) In deliverable end item quantities only;
 - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
 - (iii) To the contract type only.

(c) *VECP preparation*. As a minimum, the Contractor shall include in each VECP the information described in paragraphs (c)(1) through (8) of this clause. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

- (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
- (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
- (3) Identification of the unit to which the VECP applies.
- (4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause.
- (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
- (6) A prediction of any effects the proposed change would have on collateral costs to the agency.

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(7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) *Submission.* The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.

(e) Government action.

(1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it will not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) *Sharing rates.* If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon-

(1) This contract's type (fixed-price, incentive, or cost-reimbursement);

(2) The sharing arrangement specified in paragraph (a) of this clause (incentive, program requirement, or a combination as delineated in the Schedule); and

(3) The source of the savings (the instant contract, or concurrent and future contracts), as follows:

Contractor's Share of Net Acquisition Savings (Figure in Percent)		
Contract Type	Incentive (Voluntary)	Program Requirement (Mandatory)

Contractor’s Share of Net Acquisition Savings (Figure in Percent)				
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	*50	*50	25	25
Incentive (fixed-price or cost) (other than award fee)	(**)	*50	(**)	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive contracts)	***25	***25	15	15

* The Contracting Office may increase the Contractor’s sharing rate to as high as 75 percent for each VECP.

** Same sharing arrangement as the contract’s profit or fee adjustment formula.

*** The Contracting Office may increase the Contractor’s sharing rate to as high as 50 percent for each VECP.

(g) Calculating net acquisition savings.

(1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see paragraph (i)(4) of this clause). Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor’s share is calculated by multiplying net acquisition savings by the appropriate Contractor’s percentage sharing rate (see paragraph (f) of this clause). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

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(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) *Contract adjustment.* The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall-

(1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;

(2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;

(3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;

(4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and

(5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:

(i) Fixed-price contracts-add to contract price.

(ii) Cost-reimbursement contracts-add to contract fee.

(i) Concurrent and future contract savings.

(1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with paragraph (h)(5) of this clause. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.

(2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by-

(i) Subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset; and

(ii) Multiplying the result by the Contractor's sharing rate.

(3) The Contracting Officer shall calculate the Contractor's share of future contract savings by-

(i) Multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period;

(ii) Subtracting any Government costs or negative instant contract savings not yet offset; and

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(iii) Multiplying the result by the Contractor's sharing rate.

(4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see paragraph (h)(3) of this clause) and shall not be subject to subsequent adjustment.

(5) *Alternate no-cost settlement method.* When, in accordance with section 48.104-4 of the Federal Acquisition Regulation (FAR), the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:

(i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.

(ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) *Collateral savings.* If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(k) *Relationship to other incentives.* Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(l) *Subcontracts.* The Contractor shall include an appropriate value engineering clause in any subcontract-valued at or above the simplified acquisition threshold, as defined in FAR 2.101 on the date of subcontract award, and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments, *provided*, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

(m) *Data.* The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

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These data, furnished under the Value Engineering clause of contract _____, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in part 27 of the Federal Acquisition Regulation.)

(End of clause)

252.203-7004 DISPLAY OF HOTLINE POSTERS (JAN 2023)

(Applicable to Orders that exceed \$6 million, except those that are commercial items. Applies to Non-Commercial procurements only.)

(a) Definition. As used in this clause—

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Display of hotline poster(s).

(1)(i) The Contractor shall display prominently the DoD fraud, waste, and abuse hotline poster prepared by the DoD Office of the Inspector General, in effect at time of contract award, in common work areas within business segments performing work under Department of Defense (DoD) contracts.

(ii) For contracts performed outside the United States, when security concerns can be appropriately demonstrated, the contracting officer may provide the contractor the option to publicize the program to contractor personnel in a manner other than public display of the poster, such as private employee written instructions and briefings.

(2) If the contract is funded, in whole or in part, by Department of Homeland Security (DHS) disaster relief funds and the work is to be performed in the United States, the DHS fraud hotline poster shall be displayed in addition to the DoD hotline poster. If a display of a DHS fraud hotline poster is required, the Contractor may obtain such poster from—

(i) DHS Office of Inspector General/MAIL STOP 0305, Attn: Office of Investigations – Hotline, 245 Murray Lane SW, Washington, DC 20528-0305; or

(ii) Via the internet at https://www.oig.dhs.gov/assets/Hotline/DHS_OIG_Hotline-optimized.jpg.

(c)(1) The DoD hotline poster may be obtained from: Defense Hotline, The Pentagon, Washington, D.C. 20301-1900, or is also available via the internet at <https://www.dodig.mil/Resources/Posters-and-Brochures/>.

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(2) If a significant portion of the employee workforce does not speak English, then the poster is to be displayed in the foreign languages that a significant portion of the employees speak.

(3) Additionally, if the Contractor maintains a company website as a method of providing information to employees, the Contractor shall display an electronic version of the required poster at the website.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Defense Federal Acquisition Regulation Supplement 203.1004 (b)(2)(ii) on the date of subcontract award, except when the subcontract is for the acquisition of a commercial product or commercial service.

(End of clause)

252.203-7005 REPRESENTATION RELATING TO COMPENSATION OF FORMER DOD OFFICIALS (SEP 2022)

(Applicable to Purchase Orders, including those using FAR part 12 procedures for the acquisition of commercial items and for task and delivery orders. Applies to Commercial and Non-Commercial procurements.)

(a) Definition. "Covered DoD official" is defined in the clause at 252.203-7000, Requirements Relating to Compensation of Former DoD Officials.

(b) By submission of this offer, the Offeror represents, to the best of its knowledge and belief, that all covered DoD officials employed by or otherwise receiving compensation from the Offeror, and who are expected to undertake activities on behalf of the Offeror for any resulting contract, are presently in compliance with all applicable post-employment restrictions, including those contained in 18 U.S.C. 207, 41 U.S.C. 2101-107, 5 CFR part 2641, section 1045 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91), and Federal Acquisition Regulation 3.104-2.

(End of provision)

252.204-7018 PROHIBITION ON THE ACQUISITION OF COVERED DEFENSE TELECOMMUNICATIONS EQUIPMENT OR SERVICES (JAN 2021)

(Applicable to all Purchase Orders including those for the acquisition of Commercial Items. Applies to Commercial and Non-Commercial procurements.)

(a) Definitions. As used in this clause -Covered defense telecommunications equipment or services means -

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, or any subsidiary or affiliate of such entities;

(2) Telecommunications services provided by such entities or using such equipment; or

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(3) Telecommunications equipment or services produced or provided by an entity that the Secretary of Defense reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Covered foreign country means -

- (1) The People's Republic of China; or
- (2) The Russian Federation.

Covered missions means -

- (1) The nuclear deterrence mission of DoD, including with respect to nuclear command, control, and communications, integrated tactical warning and attack assessment, and continuity of Government; or
- (2) The homeland defense mission of DoD, including with respect to ballistic missile defense.

“Critical technology” means -

- (1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;
- (2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled -
 - (i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or
 - (ii) For reasons relating to regional stability or surreptitious listening;
- (3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);
- (4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);
- (5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or
- (6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Substantial or essential component means any component necessary for the proper function or performance of a piece of equipment, system, or service.

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(b) Prohibition. In accordance with section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91), the contractor shall not provide to the Government any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless the covered defense telecommunication equipment or services are covered by a waiver described in Defense Federal Acquisition Regulation Supplement 204.2104.

(c) Procedures. The Contractor shall review the list of excluded parties in the System for Award Management (SAM) at <https://www.sam.gov> for entities that are excluded when providing any equipment, system, or service, to carry out covered missions, that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless a waiver is granted.

(d) Reporting.

(1) In the event the Contractor identifies covered defense telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, the Contractor shall report at <https://dibnet.dod.mil> the information in paragraph (d)(2) of this clause.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

(i) Within 3 business days from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 30 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of a covered defense telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(End of clause)

252.208-7000 INTENT TO FURNISH PRECIOUS METALS AS GOVERNMENT-FURNISHED MATERIAL (DEC 1991)

(Applicable to all Purchase Orders when the item being purchased contains precious metals. Applies to Commercial and Non-Commercial procurements.)

(a) The Government intends to furnish precious metals required in the manufacture of items to be delivered under the contract if the Contracting Officer determines it to be in the Government's best interest. The use of Government-furnished silver is mandatory when the quantity required is one hundred troy ounces or

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more. The precious metal(s) will be furnished pursuant to the Government Furnished Property clause of the contract.

(b) The Offeror shall cite the type (silver, gold, platinum, palladium, iridium, rhodium, and ruthenium) and quantity in whole troy ounces of precious metals required in the performance of this contract (including precious metals required for any first article or production sample), and shall specify the national stock number (NSN) and nomenclature, if known, of the deliverable item requiring precious metals.

<u>Precious Metal*</u>	<u>Quantity</u>	<u>Deliverable Item (NSN and Nomenclature)</u>

*If platinum or palladium, specify whether sponge or granules are required.

(c) Offerors shall submit two prices for each deliverable item which contains precious metals--one based on the Government furnishing precious metals, and one based on the Contractor furnishing precious metals. Award will be made on the basis which is in the best interest of the Government.

(d) The Contractor agrees to insert this clause, including this paragraph (d), in solicitations for subcontracts and purchase orders issued in performance of this contract, unless the Contractor knows that the item being purchased contains no precious metals.

(End of clause)

252.209-7010 CRITICAL SAFETY ITEMS (AUG 2011)

(Applicable to Purchase Orders that include one or more items designated by the design control activity as critical safety items. Applies to Commercial and Non-Commercial procurements.) (a) *Definitions.*

“Aviation critical safety item” means a part, an assembly, installation equipment, launch equipment, recovery equipment, or support equipment for an aircraft or aviation weapon system if the part, assembly, or equipment contains a characteristic any failure, malfunction, or absence of which could cause—

- (i) A catastrophic or critical failure resulting in the loss of, or serious damage to, the aircraft or weapon system;
- (ii) An unacceptable risk of personal injury or loss of life; or
- (iii) An uncommanded engine shutdown that jeopardizes safety.

“Design control activity” means—

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(i) With respect to an aviation critical safety item, the systems command of a military department that is specifically responsible for ensuring the airworthiness of an aviation system or equipment, in which an aviation critical safety item is to be used; and

(ii) With respect to a ship critical safety item, the systems command of a military department that is specifically responsible for ensuring the seaworthiness of a ship or ship equipment, in which a ship critical safety item is to be used.

“Ship critical safety item” means any ship part, assembly, or support equipment containing a characteristic, the failure, malfunction, or absence of which could cause—

(i) A catastrophic or critical failure resulting in loss of, or serious damage to, the ship; or

(ii) An unacceptable risk of personal injury or loss of life.

(b) *Identification of critical safety items.* One or more of the items being procured under this contract is an aviation or ship critical safety item. The following items have been designated aviation critical safety items or ship critical safety items by the designated design control activity:

(Insert additional lines as necessary)

(c) *Heightened quality assurance surveillance.* Items designated in paragraph (b) of this clause are subject to heightened, risk-based surveillance by the designated quality assurance representative.

(End of clause)

252.215-7010 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA—BASIC (JAN 2023)

(Applicable to all Orders exceeding the Simplified Acquisition Threshold as defined in FAR part 2. Applies to Commercial and Non-Commercial procurements.)

(a) Definitions. As used in this provision—

“Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

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“Non-Government sales” means sales of the supplies or services to non-Governmental entities for purposes other than governmental purposes.

“Relevant sales data” means information provided by an offeror on sales of the same or similar items that can be used to establish price reasonableness taking into consideration the age, volume, and nature of the transactions (including any related discounts, refunds, rebates, offsets, or other adjustments).

“Sufficient non-Government sales” means relevant sales data that reflects market pricing and contains enough information to make adjustments covered by FAR 15.404-1(b)(2)(ii)(B).

“Uncertified cost data” means the subset of “data other than certified cost or pricing data” (see FAR 2.101) that relates to cost.

(b) Exceptions from certified cost or pricing data.

(1) In lieu of submitting certified cost or pricing data, the Offeror may submit a written request for exception by submitting the information described in paragraphs (b)(1)(i) and (ii) of this provision. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted and whether the price is fair and reasonable.

(i) Exception for prices set by law or regulation - Identification of the law or regulation establishing the prices offered. If the prices are controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Commercial product or commercial service exception. For a commercial product or commercial service exception, the Offeror shall submit, at a minimum, information that is adequate for evaluating the reasonableness of the price for this acquisition, including prices at which the same product or service or similar products or services have been sold in the commercial market. Such information shall include—

(A) For items previously determined to be commercial, the contract number and military department, defense agency, or other DoD component that rendered such determination, and if available, a Government point of contact;

(B) For items priced based on a catalog—

(1) A copy of or identification of the Offeror’s current catalog showing the price for that item; and

(2) If the catalog pricing provided with this proposal is not consistent with all relevant sales data, a detailed description of differences or inconsistencies between or among the relevant sales data, the proposed price, and the catalog price (including any related discounts, refunds, rebates, offsets, or other adjustments);

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(C) For items priced based on market pricing, a description of the nature of the commercial market, the methodology used to establish a market price, and all relevant sales data. The description shall be adequate to permit DoD to verify the accuracy of the description;

(D) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item; or

(E) For items provided by nontraditional defense contractors, a statement that the entity is not currently performing and has not performed, for at least the 1-year period preceding the solicitation of sources by DoD for the procurement or transaction, any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section.

(2) The Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and to determine the reasonableness of price.

(c) Requirements for certified cost or pricing data. If the Offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Offeror shall prepare and submit certified cost or pricing data and supporting attachments in accordance with the instructions contained in Table 15-2 of FAR 15.408, which is incorporated by reference with the same force and effect as though it were inserted here in full text. The instructions in Table 15-2 are incorporated as a mandatory format to be used in any resultant contract, unless the Contracting Officer and the Offeror agree to a different format and change this provision to use Alternate I.

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the Offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, i.e., two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement in accordance with FAR 15.403-1(c)(1)(ii).

(d) Requirements for data other than certified cost or pricing data.

(1) Data other than certified cost or pricing data submitted in accordance with this provision shall include the minimum information necessary to permit a determination that the proposed price is fair and reasonable, to include the requirements in DFARS 215.402(a)(i) and 215.404-1(b).

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(2) In cases in which uncertified cost data is required, the information shall be provided in the form in which it is regularly maintained by the Offeror or prospective subcontractor in its business operations.

(3) Within 10 days of a written request from the Contracting Officer for additional information to permit an adequate evaluation of the proposed price in accordance with FAR 15.403-3, the Offeror shall provide either the requested information, or a written explanation for the inability to fully comply.

(4) Subcontract price evaluation. (i) Offerors shall obtain from subcontractors the minimum information necessary to support a determination of price reasonableness, as described in FAR part 15 and DFARS part 215.

(ii) No cost data may be required from a prospective subcontractor in any case in which there are sufficient non-Government sales of the same item to establish reasonableness of price.

(iii) If the Offeror relies on relevant sales data for similar items to determine the price is reasonable, the Offeror shall obtain only that technical information necessary -

(A) To support the conclusion that items are technically similar; and

(B) To explain any technical differences that account for variances between the proposed prices and the sales data presented.

(e) Subcontracts. The Offeror shall insert the substance of this provision, including this paragraph (e), in subcontracts exceeding the simplified acquisition threshold defined in FAR part 2. The Offeror shall require prospective subcontractors to adhere to the requirements of -

(1) Paragraphs (c) and (d) of this provision for subcontracts above the threshold for submission of certified cost or pricing data in FAR 15.403-4; and

(2) Paragraph (d) of this provision for subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

(End of provision)

252.215-7010 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA—ALTERNATE I (JAN 2023)

(Applicable to all Orders exceeding the Simplified Acquisition Threshold as defined in FAR part 2. Applies to Commercial and Non-Commercial procurements.)

(a) Definitions. As used in this provision—

“Market prices” means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors.

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“Non-Government sales” means sales of the supplies or services to non-Governmental entities for purposes other than governmental purposes.

“Relevant sales data” means information provided by an offeror on sales of the same or similar items that can be used to establish price reasonableness taking into consideration the age, volume, and nature of the transactions (including any related discounts, refunds, rebates, offsets, or other adjustments).

“Sufficient non-Government sales” means relevant sales data that reflects market pricing and contains enough information to make adjustments covered by FAR 15.404-1(b)(2)(ii)(B).

“Uncertified cost data” means the subset of “data other than certified cost or pricing data” (see FAR 2.101) that relates to cost.

(b) Exceptions from certified cost or pricing data.

(1) In lieu of submitting certified cost or pricing data, the Offeror may submit a written request for exception by submitting the information described in paragraphs (b)(1)(i) and (ii) of this provision. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted and whether the price is fair and reasonable.

(i) Exception for price set by law or regulation - Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Commercial product or commercial service exception. For a commercial product or commercial service exception, the Offeror shall submit, at a minimum, information that is adequate for evaluating the reasonableness of the price for this acquisition, including prices at which the same product or service or similar products or services have been sold in the commercial market. Such information shall include—

(A) For products or services previously determined to be commercial, the contract number and military department, defense agency, or other DoD component that rendered such determination, and if available, a Government point of contact;

(B) For items priced based on a catalog—

(1) A copy of or identification of the Offeror’s current catalog showing the price for that item; and

(2) If the catalog pricing provided with this proposal is not consistent with all relevant sales data, a detailed description of differences or inconsistencies between or among the relevant sales data, the proposed price, and the catalog price (including any related discounts, refunds, rebates, offsets, or other adjustments);

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(C) For items priced based on market pricing, a description of the nature of the commercial market, the methodology used to establish a market price, and all relevant sales data. The description shall be adequate to permit DoD to verify the accuracy of the description;

(D) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item; or

(E) For items provided by nontraditional defense contractors, a statement that the entity is not currently performing and has not performed, for at least the 1-year period preceding the solicitation of sources by DoD for the procurement or transaction, any contract or subcontract for DoD that is subject to full coverage under the cost accounting standards prescribed pursuant to 41 U.S.C. 1502 and the regulations implementing such section.

(2) The Offeror grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and to determine the reasonableness of price.

(c) Requirements for certified cost or pricing data. If the Offeror is not granted an exception from the requirement to submit certified cost or pricing data, the following applies:

(1) The Offeror shall submit certified cost or pricing data and supporting attachments in the following format: [Insert description of the data and format that are required, and include access to records necessary to permit an adequate evaluation of the proposed price in accordance with FAR 15.408, Table 15-2, Note 2. The Contracting Officer shall insert the description at the time of issuing the solicitation or specify that the format regularly maintained by the offeror or prospective subcontractor in its business operations will be acceptable. The Contracting Officer may amend the description as the result of negotiations.]

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions such as letter contracts), the Offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(3) The Offeror is responsible for determining whether a subcontractor qualifies for an exception from the requirement for submission of certified cost or pricing data on the basis of adequate price competition, i.e., two or more responsible offerors, competing independently, submit priced offers that satisfy the Government's expressed requirement in accordance with FAR 15.403-1(c)(1)(ii).

(d) Requirements for data other than certified cost or pricing data.

(1) Data other than certified cost or pricing data submitted in accordance with this provision shall include all data necessary to permit a determination that the proposed price is fair and reasonable, to include the requirements in DFARS 215.402 (a)(i) and (b).

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(2) In cases in which uncertified cost data is required, the information shall be provided in the form in which it is regularly maintained by the Offeror or prospective subcontractor in its business operations.

(3) The Offeror shall provide information described as follows: [Insert description of the data and the format that are required, including access to records necessary to permit an adequate evaluation of the proposed price in accordance with FAR 15.403-3].

(4) Within 10 days of a written request from the Contracting Officer for additional information to support proposal analysis, the Offeror shall provide either the requested information, or a written explanation for the inability to fully comply.

(5) Subcontract price evaluation.

(i) Offerors shall obtain from subcontractors the information necessary to support a determination of price reasonableness, as described in FAR part 15 and DFARS part 215.

(ii) No cost information may be required from a prospective subcontractor in any case in which there are sufficient non-Government sales of the same item to establish reasonableness of price.

(iii) If the Offeror relies on relevant sales data for similar items to determine the price is reasonable, the Offeror shall obtain only that technical information necessary—

(A) To support the conclusion that items are technically similar; and

(B) To explain any technical differences that account for variances between the proposed prices and the sales data presented.

(e) Subcontracts. The Offeror shall insert the substance of this provision, including this paragraph (e), in all subcontracts exceeding the simplified acquisition threshold defined in FAR part 2. The Offeror shall require prospective subcontractors to adhere to the requirements of—

(1) Paragraph (c) and (d) of this provision for subcontracts above the threshold for submission of certified cost or pricing data in FAR 15.403-4; and

(2) Paragraph (d) of this provision for subcontracts exceeding the simplified acquisition threshold defined in FAR part 2.

(End of provision)

252.219-7000 ADVANCING SMALL BUSINESS GROWTH (DEC 2022)

(Applicable to all Purchase Orders. Applies to Commercial and Non-Commercial procurements.)

(a) This provision implements 10 U.S.C. 4959.

(b) The Offeror acknowledges by submission of its offer that by acceptance of the contract resulting from this solicitation, the Offeror may exceed the applicable small business size standard of the North American

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Industry Classification System (NAICS) code assigned to the contract and would no longer qualify as a small business concern for that NAICS code. (Small business size standards matched to industry NAICS codes are published by the Small Business Administration and are available at <http://www.sba.gov/content/table-small-business-size-standards>.) The Offeror is therefore encouraged to develop the capabilities and characteristics typically desired in contractors that are competitive as other-than-small contractors in this industry.

(c) For procurement technical assistance, the Offeror may contact the nearest Procurement Technical Assistance Center (PTAC). PTAC locations are available at <http://www.dla.mil/HQ/SmallBusiness/PTAC.aspx>.

(End of provision)

252.225-7008 SUPPLIES TO BE ACCORDED DUTY-FREE ENTRY (DEC 1991)

Applicable to all Orders for the delivery of specialty metals as end items to Buyer or Seller to the extent necessary to ensure compliance of the end products that Buyer will deliver to the Government when DFARS clause 252.225-7009 is in the prime contract.

In accordance with paragraph (a) of the Duty-Free Entry clause and/or paragraph (b) of the Duty-Free Entry--Qualifying Country End Products and Supplies clause of this contract, the following supplies are accorded duty-free entry:

(End of clause)

252.225-7055 REPRESENTATION REGARDING BUSINESS OPERATIONS WITH THE MADURO REGIME (MAY 2022)

(Applicable to all Purchase Orders using FAR part 12 procedures for the acquisition of commercial items, that include the clause at 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime. Applies to Commercial and Non-commercial procurements.)

(a) Definitions. As used in this provision—

Agency or instrumentality of the government of Venezuela, business operations, government of Venezuela, and person have the meaning given in the clause 252.225-7056, Prohibition Regarding Business Operations with the Maduro Regime, of this solicitation.

(b) Prohibition. In accordance with section 890 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92), DoD is prohibited from entering into a contract for the procurement of products or services

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with any person that has business operations with an authority of the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government, unless the person has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(c) Representation. By submission of its offer, the Offeror represents that the Offeror is a person that—

(1) Does not have any business operations with an authority of the Maduro regime or the government of Venezuela that is not recognized as the legitimate government of Venezuela by the U.S. Government; or

(2) Has a valid license to operate in Venezuela issued by the Office of Foreign Assets Control of the Department of the Treasury.

(End of provision)

252.225-7973 PROHIBITION ON THE PROCUREMENT OF FOREIGN-MADE UNMANNED AIRCRAFT SYSTEMS - REPRESENTATION (MAY 2020) (DEVIATION 2020-O0015)

(Applicable to all Orders including for the acquisition of commercial items, unless (a) the acquisition is for counter-unmanned aircraft system surrogate testing and training, or for intelligence, electronic warfare, and information warfare operations, texting, analysis, and training; or (b) a waiver has been granted by the Secretary of Defense. Applies to Commercial procurements only.)

(a) Prohibition. Section 848 of the National Defense Authorization Act for Fiscal Year 2020 (Pub. L. 116-92) prohibits DoD from using or procuring -

(1) An unmanned aircraft system (UAS), or any related services or equipment, that -

(i) Is manufactured in the People's Republic of China or by an entity domiciled in the People's Republic of China;

(ii) Uses flight controllers, radios, data transmission devices, cameras, or gimbals manufactured in the People's Republic of China or by an entity domiciled in the People's Republic of China;

(iii) Uses a ground control system or operating software developed in the People's Republic of China or by an entity domiciled in the People's Republic of China; or

(iv) Uses network connectivity or data storage located in, or administered by an entity domiciled in, the People's Republic of China; or

(2) A system for the detection or identification of a UAS, or any related services or equipment, that is manufactured-

(i) In the People's Republic of China; or

(ii) By an entity domiciled in the People's Republic of China.

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(b) Representations. By submission of its offer, the Offeror represents that it will not provide or use -

- (1) A UAS, as described in paragraph (a)(1) of this provision, in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation; and
- (2) A system for the detection or identification of a UAS, as described in paragraph (a)(2) of this provision, in the performance of any contract, subcontract, or other contractual instrument resulting from this solicitation.

252.227-7013 RIGHTS IN TECHNICAL DATA—OTHER THAN COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (JAN 2023)

(Applicable to all Orders when Buyer will be required to deliver to the Government Seller's technical data pertaining to noncommercial items, or pertaining to commercial items for which the Government will have paid for any portion of the development costs. Applies to Commercial and Non-Commercial procurements.)

(a) Definitions. As used in this clause—

- (1) "Computer data base" means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.
- (2) "Computer program" means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.
- (3) "Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.
- (4) "Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.
- (5) "Covered Government support contractor" means a contractor (other than a litigation support contractor covered by 252.204-7014) under a contract, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), provided that the contractor—
 - (i) Is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and
 - (ii) Receives access to technical data or computer software for performance of a Government contract that contains the clause at 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

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(6) “Detailed manufacturing or process data” means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.

(7) “Developed” means that an item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component, or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered “developed,” the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, or process be actually reduced to practice within the meaning of Title 35 of the United States Code.

(8) “Developed exclusively at private expense” means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(9) “Developed exclusively with government funds” means development was not accomplished exclusively or partially at private expense.

(10) “Developed with mixed funding” means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(11) “Form, fit, and function data” means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(12) “Government purpose” means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

(13) “Government purpose rights” means the rights to—

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(i) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and

(ii) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.

(14) “Limited rights” means the rights to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party, except that the Government may reproduce, release, or disclose such data or authorize the use or reproduction of the data by persons outside the Government if—

(i) The reproduction, release, disclosure, or use is—

(A) Necessary for emergency repair and overhaul; or

(B) A release or disclosure to—

(1) A covered Government support contractor in performance of its covered Government support contract for use, modification, reproduction, performance, display, or release or disclosure to a person authorized to receive limited rights technical data; or

(2) A foreign government, of technical data other than detailed manufacturing or process data, when use of such data by the foreign government is in the interest of the Government and is required for evaluational or informational purposes;

(ii) The recipient of the technical data is subject to a prohibition on the further reproduction, release, disclosure, or use of the technical data; and

(iii) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, or use.

(15) “Technical data” means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(16) “Unlimited rights” means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in technical data. The Contractor grants or shall obtain for the Government the following royalty free, worldwide, nonexclusive, irrevocable license rights in technical data other than computer software

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documentation (see the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause of this contract for rights in computer software documentation):

(1) Unlimited rights. The Government shall have unlimited rights in technical data that are—

- (i) Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;
- (ii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;
- (iii) Created exclusively with Government funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;
- (iv) Form, fit, and function data;
- (v) Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);
- (vi) Corrections or changes to technical data furnished to the Contractor by the Government;
- (vii) Otherwise publicly available or have been released or disclosed by the Contractor or subcontractor without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;
- (viii) Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or
- (ix) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with —
 - (A) Government purpose license rights or limited rights and the restrictive condition(s) has/have expired; or
 - (B) Government purpose rights and the Contractor's exclusive right to use such data for commercial purposes has expired.

(2) Government purpose rights.

- (i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated, in technical data—
 - (A) That pertain to items, components, or processes developed with mixed funding except when the Government is entitled to unlimited rights in such data as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause;or

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(B) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The five-year period, or such other period as may have been negotiated, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation of the data described in paragraph (b)(2)(i)(B) of this clause. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the technical data.

(iii) The Government shall not release or disclose technical data in which it has government purpose rights unless—

(A) Prior to release or disclosure, the intended recipient is subject to the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS); or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights legend prescribed in paragraph (f)(2) of this clause.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause, the Government shall have limited rights in technical data—

(A) Pertaining to items, components, or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The Government shall require a recipient of limited rights data for emergency repair or overhaul to destroy the data and all copies in its possession promptly following completion of the emergency repair/overhaul and to notify the Contractor that the data have been destroyed.

(iii) The Contractor, its subcontractors, and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose technical data furnished to the Government with limited rights.

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However, if the Government desires to obtain additional rights in technical data in which it has limited rights, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract. The license shall enumerate the additional rights granted the Government in such data.

(iv) The Contractor acknowledges that—

(A) Limited rights data are authorized to be released or disclosed to covered Government support contractors;

(B) The Contractor will be notified of such release or disclosure;

(C) The Contractor (or the party asserting restrictions as identified in the limited rights legend) may require each such covered Government support contractor to enter into a non-disclosure agreement directly with the Contractor (or the party asserting restrictions) regarding the covered Government support contractor's use of such data, or alternatively, that the Contractor (or party asserting restrictions) may waive in writing the requirement for a non-disclosure agreement; and

(D) Any such non-disclosure agreement shall address the restrictions on the covered Government support contractor's use of the limited rights data as set forth in the clause at 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. The non-disclosure agreement shall not include any additional terms and conditions unless mutually agreed to by the parties to the non-disclosure agreement.

(4) Specifically negotiated license rights. The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in technical data, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights than are enumerated in paragraph (a)(14) of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Technical data that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless—

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of technical data made in accordance with paragraph (a)(14) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this

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clause, or by others to whom the recipient has released or disclosed the data and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(c) Contractor rights in technical data. All rights not granted to the Government are retained by the Contractor.

(d) Third party copyrighted data. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted data in the technical data to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable data of the appropriate scope set forth in paragraph (b) of this clause, and has affixed a statement of the license or licenses obtained on behalf of the Government and other persons to the data transmittal document.

(e) Identification and delivery of data to be furnished with restrictions on use, release, or disclosure.

(1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, technical data that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure are identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any data with restrictive markings unless the data are listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the data, in the following format, and signed by an official authorized to contractually obligate the Contractor:

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data should be restricted—

Technical Data to be Furnished with Restrictions*	Basis for Assertion**	Asserted Rights Category***	Name of Person Asserting Restrictions****

*If the assertion is applicable to items, components, or processes developed at private expense, identify both the data and each such item, component, or process.

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**Generally, the development of an item, component, or process at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data pertaining to such items, components, or processes. Indicate whether development was exclusively or partially at private expense.

If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

***Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited or government purpose rights under this or a prior contract, or specifically negotiated licenses).

****Corporation, individual, or other person, as appropriate.

Date _____
Printed Name and Title _____

Signature _____

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Restrictive Markings on Technical Data clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the limited rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data that qualify for such markings. The authorized legends shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

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(2) Government purpose rights markings. Data delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No.	Contractor Name	Contractor Address	Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data—Other Than Commercial Products and Commercial Services clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Limited rights markings. Data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

LIMITED RIGHTS

Contract No.	Contractor Name	Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data—Noncommercial Items clause contained in the above identified contract.

Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings.

(i) Data in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

SPECIAL LICENSE RIGHTS

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The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by

Contract No.	License No. and/or License Identifier

Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver technical data with other than unlimited rights, shall—

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(h) Removal of unjustified and nonconforming markings.

(1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive Markings on Technical Data clause of this contract, a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or

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correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in technical data.

(1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data to be delivered under this contract when—

(i) The Government has acquired, by any means, the same or greater rights in the data; or

(ii) The data are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause—

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data will be delivered.

(k) Applicability to subcontractors or suppliers.

(1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 3771-3775, 10 U.S.C. 3781-3786, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected.

(2) Whenever any technical data for other than commercial products or commercial services, or for commercial products or commercial services developed in any part at Government expense, is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, including subcontracts or other contractual instruments for commercial products or commercial services, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. This clause will govern the technical data pertaining to other than commercial products or commercial services or to any portion of a commercial product or commercial service that was developed in any part at Government expense, and the clause at 252.227-7015 will govern the technical data pertaining to any portion of a commercial product or commercial service that was developed exclusively at private expense. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

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(3) Technical data required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor or supplier, then said subcontractor or supplier may fulfill its requirement by submitting such data directly to the Government, rather than through a higher-tier contractor, subcontractor, or supplier.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data from their subcontractors or suppliers.

(5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data as an excuse for failing to satisfy its contractual obligation to the Government.

(End of clause)

252.227-7014 RIGHTS IN OTHER THAN COMMERCIAL COMPUTER SOFTWARE AND OTHER THAN COMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (JAN 2023)

(Applicable to Purchase Orders when Seller's performance will require delivery of non-commercial computer software or computer software documentation. Applies to Non-Commercial procurements only.)

(a) Definitions. As used in this clause—

(1) "Commercial computer software" means software developed or regularly used for non-governmental purposes which—

(i) Has been sold, leased, or licensed to the public;

(ii) Has been offered for sale, lease, or license to the public;

(iii) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or

(iv) Satisfies a criterion expressed in paragraph (a)(1)(i), (ii), or (iii) of this clause and would require only minor modification to meet the requirements of this contract.

(2) "Computer database" means a collection of recorded data in a form capable of being processed by a computer. The term does not include computer software.

(3) "Computer program" means a set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

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(4) "Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

(5) "Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(6) "Covered Government support contractor" means a contractor (other than a litigation support contractor covered by 252.204-7014) under a contract, the primary purpose of which is to furnish independent and impartial advice or technical assistance directly to the Government in support of the Government's management and oversight of a program or effort (rather than to directly furnish an end item or service to accomplish a program or effort), provided that the contractor—

(i) Is not affiliated with the prime contractor or a first-tier subcontractor on the program or effort, or with any direct competitor of such prime contractor or any such first-tier subcontractor in furnishing end items or services of the type developed or produced on the program or effort; and

(ii) Receives access to technical data or computer software for performance of a Government contract that contains the clause at 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(7) "Developed" means that—

(i) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;

(ii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its intended purpose; or

(iii) Computer software documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

(8) "Developed exclusively at private expense" means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(9) “Developed exclusively with government funds” means development was not accomplished exclusively or partially at private expense.

(10) “Developed with mixed funding” means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(11) “Government purpose” means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

(12) “Government purpose rights” means the rights to—

(i) Use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation within the Government without restriction; and

(ii) Release or disclose computer software or computer software documentation outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the software or documentation for United States government purposes.

(13) “Minor modification” means a modification that does not significantly alter the nongovernmental function or purpose of the software or is of the type customarily provided in the commercial marketplace.

(14) “Other than commercial computer software” means software that does not qualify as commercial computer software under the definition of “commercial computer software” of this clause.

(15) “Restricted rights” apply only to other than commercial computer software and mean the Government's rights to—

(i) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(ii) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

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(iv) Modify computer software provided that the Government may—

(A) Use the modified software only as provided in paragraphs (a)(15)(i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(15)(ii), (v), (vi) and (vii) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that—

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(15)(iv) of this clause, for any other purpose; and

(D) Such use is subject to the limitations in paragraphs (a)(15)(i) through (iii) of this clause;

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that—

(A) The intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(15)(iv) of this clause, for any other purpose; and

(C) Such use is subject to the limitations in paragraphs (a)(15)(i) through (iii) of this clause; and

(vii) Permit covered Government support contractors in the performance of covered Government support contracts that contain the clause at 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends, to use, modify, reproduce, perform, display, or release or disclose the computer software to a person authorized to receive restricted rights computer software, provided that—

(A) The Government shall not permit the covered Government support contractor to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(15)(iv) of this clause, for any other purpose; and

(B) Such use is subject to the limitations in paragraphs (a)(15)(i) through (iv) of this clause.

(16) “Unlimited rights” means rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in computer software or computer software documentation. The Contractor grants or shall obtain for the Government the following royalty free, worldwide, nonexclusive, irrevocable license rights in other than commercial computer software or computer software documentation. All rights not granted to the Government are retained by the Contractor.

(1) Unlimited rights. The Government shall have unlimited rights in—

(i) Computer software developed exclusively with Government funds;

(ii) Computer software documentation required to be delivered under this contract;

(iii) Corrections or changes to computer software or computer software documentation furnished to the Contractor by the Government;

(iv) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the Contractor or subcontractor without restriction on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(v) Computer software or computer software documentation obtained with unlimited rights under another Government contract or as a result of negotiations; or

(vi) Computer software or computer software documentation furnished to the Government, under this or any other Government contract or subcontract thereunder with—

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(A) Restricted rights in computer software, limited rights in technical data, or government purpose license rights and the restrictive conditions have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such software or documentation for commercial purposes has expired.

(2) Government purpose rights.

(i) Except as provided in paragraph (b)(1) of this clause, the Government shall have government purpose rights in computer software developed with mixed funding.

(ii) Government purpose rights shall remain in effect for a period of five years unless a different period has been negotiated. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the computer software or computer software documentation. The government purpose rights period shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software.

(iii) The Government shall not release or disclose computer software in which it has government purpose rights to any other person unless—

(A) Prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7 ; or

(B) The recipient is a Government contractor receiving access to the software or documentation for performance of a Government contract that contains the clause at DFARS 252.227-7025 , Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends.

(3) Restricted rights.

(i) The Government shall have restricted rights in other than commercial computer software required to be delivered or otherwise provided to the Government under this contract that were developed exclusively at private expense.

(ii) The Contractor, its subcontractors, or suppliers are not required to provide the Government additional rights in other than commercial computer software delivered or otherwise provided to the Government with restricted rights. However, if the Government desires to obtain additional rights in such software, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All other than commercial computer software in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract (see paragraph (b)(4) of this clause). The license shall enumerate the additional rights granted the Government.

(iii) The Contractor acknowledges that—

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(A) Restricted rights computer software is authorized to be released or disclosed to covered Government support contractors;

(B) The Contractor will be notified of such release or disclosure;

(C) The Contractor (or the party asserting restrictions, as identified in the restricted rights legend) may require each such covered Government support contractor to enter into a non-disclosure agreement directly with the Contractor (or the party asserting restrictions) regarding the covered Government support contractor's use of such software, or alternatively, that the Contractor (or party asserting restrictions) may waive in writing the requirement for a non-disclosure agreement; and

(D) Any such non-disclosure agreement shall address the restrictions on the covered Government support contractor's use of the restricted rights software as set forth in the clause at 252.227-7025 , Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. The non-disclosure agreement shall not include any additional terms and conditions unless mutually agreed to by the parties to the non-disclosure agreement.

(4) Specifically negotiated license rights.

(i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in the definition of "restricted rights" of this clause or lesser rights in computer software documentation than are enumerated in paragraph (a)(14) of the Rights in Technical Data—Other Than Commercial Products and Commercial Services clause of this contract.

(ii) Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Computer software or computer software documentation that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless—

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with paragraph (a)(15) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the software, and to seek relief

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solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive legends.

(c) Rights in derivative computer software or computer software documentation. The Government shall retain its rights in the unchanged portions of any computer software or computer software documentation delivered under this contract that the Contractor uses to prepare, or includes in, derivative computer software or computer software documentation.

(d) Third party copyrighted computer software or computer software documentation. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted computer software or computer software documentation in the software or documentation to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable software or documentation of the appropriate scope set forth in paragraph (b) of this clause, and prior to delivery of such—

(1) Computer software, has provided a statement of the license rights obtained in a form acceptable to the Contracting Officer; or

(2) Computer software documentation, has affixed to the transmittal document a statement of the license rights obtained.

(e) Identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release, or disclosure.

(1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, computer software that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure is identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any software with restrictive markings unless the software is listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the software, in the following format, and signed by an official authorized to contractually obligate the Contractor:

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

Computer Software to be Furnished with Restrictions*	Basis for Assertion**	Asserted Rights Category***	Name of Person Asserting Restrictions****



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*Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

**Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

***Enter asserted rights category (e.g., restricted or government purpose rights in computer software, government purpose license rights from a prior contract, rights in SBIR software generated under another contract, or specifically negotiated licenses).

****Corporation, individual, or other person, as appropriate.

Date _____

Printed Name and Title _____

Signature _____

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Asserted Restrictions—Computer Software clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software by marking the deliverable software or documentation subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the restricted rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all computer software that qualify for such markings. The authorized legends shall be placed on the transmittal document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights legend or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be

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used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No.	Contractor Name	Contractor Address	Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(2) of the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Restricted rights markings. Software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

RESTRICTED RIGHTS

Contract No.	Contractor Name	Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(3) of the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above-named Contractor.

(End of legend)

(4) Special license rights markings.

(i) Computer software or computer software documentation in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by:

Contract No.	License No. and/or License Identifier

Any reproduction of computer software, computer software documentation, or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive legend for which the software qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver computer software or computer software documentation with other than unlimited rights, shall—

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on computer software or computer software documentation delivered under this contract.

(h) Removal of unjustified and nonconforming markings.

(1) Unjustified computer software or computer software documentation markings. The rights and obligations of the parties regarding the validation of restrictive markings on computer software or computer software documentation furnished or to be furnished under this contract are contained in the Validation of Asserted Restrictions—Computer Software and the Validation of Restrictive Markings on Technical Data clauses of this contract, respectively. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures of those clauses, a restrictive marking is determined to be unjustified.

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(2) Nonconforming computer software or computer software documentation markings. A nonconforming marking is a marking placed on computer software or computer software documentation delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Asserted Restrictions—Computer Software or the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking or markings and the Contractor fails to remove or correct such markings within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming markings.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in computer software or computer software documentation.

(1) The Contractor shall not charge to this contract any cost, including but not limited to license fees, royalties, or similar charges, for rights in computer software or computer software documentation to be delivered under this contract when—

(i) The Government has acquired, by any means, the same or greater rights in the software or documentation; or

(ii) The software or documentation are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause—

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier computer software or computer software documentation, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the software or documentation will be delivered.

(k) Applicability to subcontractors or suppliers.

(1) Whenever any other than commercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in its subcontracts or other contractual instruments, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.

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(2) The Contractor and higher tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in computer software or computer software documentation from their subcontractors or suppliers.

(3) The Contractor shall ensure that subcontractor or supplier rights are recognized and protected in the identification, assertion, and delivery processes required by paragraph (e) of this clause.

(4) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in computer software or computer software documentation as an excuse for failing to satisfy its contractual obligation to the Government.

(End of clause)

252.227-7017 IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS (JAN 2023)

(Applicable to all Purchase Orders. Applies to Commercial and Non-Commercial procurements.)

(a) The terms used in this provision are defined in following clause or clauses contained in this solicitation—

(1) If a successful offeror will be required to deliver technical data, the Rights in Technical Data—Other Than Commercial Products and Commercial Services clause, or, if this solicitation contemplates a contract under the Small Business Innovation Research Program, the Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause.

(2) If a successful offeror will not be required to deliver technical data, the Rights in Other Than Commercial Computer Software and Other Than Commercial Computer Software Documentation clause, or, if this solicitation contemplates a contract under the Small Business Innovation Research Program, the Rights in Other Than Commercial Technical Data and Computer Software—Small Business Innovation Research (SBIR) Program clause.

(b) The identification and assertion requirements in this provision apply only to technical data, including computer software documentation, or computer software to be delivered with other than unlimited rights. For contracts to be awarded under the Small Business Innovation Research Program, the notification and identification requirements do not apply to technical data or computer software that will be generated under the resulting contract. Notification and identification is not required for restrictions based solely on copyright.

(c) Offers submitted in response to this solicitation shall identify, to the extent known at the time an offer is submitted to the Government, the technical data or computer software that the Offeror, its subcontractors or suppliers, or potential subcontractors or suppliers, assert should be furnished to the Government with restrictions on use, release, or disclosure.

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(d) The Offeror's assertions, including the assertions of its subcontractors or suppliers or potential subcontractors or suppliers, shall be submitted as an attachment to its offer in the following format, dated and signed by an official authorized to contractually obligate the Offeror:

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data or Computer Software.

The Offeror asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data or computer software should be restricted:

Technical Data or Computer Software to be Furnished with Restrictions*	Basis for Assertion**	Asserted Rights Category***	Name of Person Asserting Restrictions****

*For technical data (other than computer software documentation) pertaining to items, components, or processes developed at private expense, identify both the deliverable technical data and each such item, component, or process. For computer software or computer software documentation identify the software or documentation.

**Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions. For technical data, other than computer software documentation, development refers to development of the item, component, or process to which the data pertain. The Government's rights in computer software documentation generally may not be restricted. For computer software, development refers to the software. Indicate whether development was accomplished exclusively or partially at private expense. If development was not accomplished at private expense, or for computer software documentation, enter the specific basis for asserting restrictions.

***Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited, restricted, or government purpose rights under this or a prior contract, or specially negotiated licenses).

****Corporation, individual, or other person, as appropriate.

*****Enter "none" when all data or software will be submitted without restrictions.

Date _____

Printed Name and Title _____

Signature _____

(End of identification and assertion)

(e) An offeror's failure to submit, complete, or sign the notification and identification required by paragraph (d) of this provision with its offer may render the offer ineligible for award.

(f) If the Offeror is awarded a contract, the assertions identified in paragraph (d) of this provision shall be listed in an attachment to that contract. Upon request by the Contracting Officer, the Offeror shall provide sufficient information to enable the Contracting Officer to evaluate any listed assertion.

(End of provision)

252.229-7012 TAX EXEMPTIONS (ITALY)—REPRESENTATION (MAR 2012)

(Applicable to Purchase Orders for supplies and services that would otherwise be subject to the Imposta Valore Aggiunto (IVA) tax. Applies to Commercial and Non-Commercial procurements.)

(a) *Exemptions.* The United States Government is exempt from payment of—

(1) Imposta Valore Aggiunto (IVA) tax in accordance with Article 72 of the IVA implementing decree on all supplies and services sold to United States Military Commands in Italy; and

(2) The other taxes specified in paragraph (c) of the clause DFARS 252.229-7003, Tax Exemptions (Italy).

(b) *Representation.* By submission of its offer, the offeror represents that the offered price, including the prices of subcontracts to be awarded under the contract, **does not** **does** include the taxes identified herein, or any other taxes from which the United States Government is exempt.

(End of provision)

252.229-7013 TAX EXEMPTIONS (SPAIN)—REPRESENTATION (APR 2012)

(Applicable to Purchase Orders for supplies and services that would otherwise be subject to the the excise, luxury, and transaction taxes listed in paragraph (b) of the clause DFARS 252.229-7005.) Applies to Commercial and Non-Commercial procurements.)

(a) *Exemptions.* In accordance with tax relief agreements between the United States Government and the Spanish Government, and because the resultant contract arises from the activities of the United States Forces in Spain, the contract will be exempt from the excise, luxury, and transaction taxes listed in paragraph (b) of the clause DFARS [252.229-7005](#), Tax Exemptions (Spain).

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(b) *Representation*. By submission of its offer, the offeror represents that the offered price, including the prices of subcontracts to be awarded under the contract, does not does include the taxes identified herein, or any other taxes from which the United States Government is exempt.

(End of provision)

252.234.7001 NOTICE OF EARNED VALUE MANAGEMENT SYSTEM (DEVIATION 2015-O0017)(SEP 2015)

(Use the provision at 252.234-7001, Notice of Earned Value Management System (DEVIATION 2015-O0017)(SEP 2015), in lieu of the provision at DFARS 252.234-7001, Notice of Earned Value Management System. For cost or incentive contracts valued at \$20,000,000 or more, and for other contracts for which EVMS will be applied in accordance with 234.201(1)(iii) and (iv), use the provision at 252.234-7001, Notice of Earned Value Management System (DEVIATION 2015-O0017)(SEP 2015), instead of the provisions at FAR 52.234-2, Notice of Earned Value Management System – Pre-Award IBR, and FAR 52.234-3, Notice of Earned Value Management System – Post-Award IBR, in the solicitation. Applies to Commercial and Non-Commercial Procurements.)

(a) If the offeror submits a proposal in the amount of \$100,000,000 or more—

(1) The offeror shall provide documentation that the Cognizant Federal Agency (CFA) has determined that the proposed Earned Value Management System (EVMS) complies with the EVMS guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA-748) (current version at time of solicitation). The Government reserves the right to perform reviews of the EVMS when deemed necessary to verify compliance.

(2) If the offeror proposes to use a system that has not been determined to be in compliance with the requirements of paragraph (a)(1) of this provision, the offeror shall submit a comprehensive plan for compliance with the guidelines in ANSI/EIA-748.

(i) The plan shall—

(A) Describe the EVMS the offeror intends to use in performance of the contract, and how the proposed EVMS complies with the EVMS guidelines in ANSI/EIA-748;

(B) Distinguish between the offeror’s existing management system and modifications proposed to meet the EVMS guidelines;

(C) Describe the management system and its application in terms of the EVMS guidelines;

(D) Describe the proposed procedure for administration of the EVMS guidelines as applied to subcontractors; and

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(E) Describe the process the offeror will use to determine subcontractor compliance with ANSI/EIA-748.

(ii) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(iii) The offeror's EVMS plan must provide milestones that indicate when the offeror anticipates that the EVMS will be compliant with the guidelines in ANSI/EIA-748.

(b) If the offeror submits a proposal in an amount less than \$100,000,000—

(1) The offeror shall submit a written description of the management procedures it will use and maintain in the performance of any resultant contract to comply with the requirements of the Earned Value Management System clause of the contract. The description shall include—

(i) A matrix that correlates each guideline in ANSI/EIA-748 (current version at time of solicitation) to the corresponding process in the offeror's written management procedures; and

(ii) The process the offeror will use to determine subcontractor compliance with ANSI/EIA-748.

(2) If the offeror proposes to use an EVMS that has been determined by the CFA to be in compliance with the EVMS guidelines in ANSI/EIA-748, the offeror may submit a copy of the documentation of such determination instead of the written description required by paragraph (b)(1) of this provision.

(c) The offeror shall identify the subcontractors (or the subcontracted effort if subcontractors have not been selected) to whom the EVMS requirements will apply. The offeror and the Government shall agree to the subcontractors or the subcontracted effort selected for application of the EVMS requirements. The offeror shall be responsible for ensuring that the selected subcontractors comply with the requirements of the Earned Value Management System clause of the contract.

(End of provision)

252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (DEVIATION 2015-O0017) (SEP 2015)

(Applicable only to Orders when Seller is identified in paragraph (k) of the clause. Applicable to Commercial and Non-Commercial procurements.)

(a) Definitions. As used in this clause—

“Acceptable earned value management system” means an earned value management system that generally complies with system criteria in paragraph (b) of this clause.

“Earned value management system” means an earned value management system that complies with the earned value management system guidelines in the ANSI/EIA-748.

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“Significant deficiency” means a shortcoming in the system that materially affects the ability of officials of the Department of Defense to rely upon information produced by the system that is needed for management purposes.

(b) System criteria. In the performance of this contract, the Contractor shall use—

(1) An Earned Value Management System (EVMS) that complies with the EVMS guidelines in the American National Standards Institute/Electronic Industries Alliance Standard 748, Earned Value Management Systems (ANSI/EIA-748); and

(2) Management procedures that provide for generation of timely, reliable, and verifiable information for the Contract Performance Report (CPR) and the Integrated Master Schedule (IMS) required by the CPR and IMS data items of this contract.

(c) If this contract has a value of \$100 million or more, the Contractor shall use an EVMS that has been determined to be acceptable by the Cognizant Federal Agency (CFA). If, at the time of award, the Contractor’s EVMS has not been determined by the CFA to be in compliance with the EVMS guidelines as stated in paragraph (b)(1) of this clause, the Contractor shall apply its current system to the contract and shall take necessary actions to meet the milestones in the Contractor’s EVMS plan.

(d) If this contract has a value of less than \$100 million, the Government will not make a formal determination that the Contractor’s EVMS complies with the EVMS guidelines in ANSI/EIA-748 with respect to the contract. The use of the Contractor’s EVMS for this contract does not imply a Government determination of the Contractor’s compliance with the EVMS guidelines in ANSI/EIA-748 for application to future contracts. The Government will allow the use of a Contractor’s EVMS that has been formally reviewed and determined by the CFA to be in compliance with the EVMS guidelines in ANSI/EIA-748.

(e) The Contractor shall submit notification of any proposed substantive changes to the EVMS procedures and the impact of those changes to the CFA. If this contract has a value of \$100 million or more, unless a waiver is granted by the CFA, any EVMS changes proposed by the Contractor require approval of the CFA prior to implementation. The CFA will advise the Contractor of the acceptability of such changes as soon as practicable (generally within 30 calendar days) after receipt of the Contractor’s notice of proposed changes. If the CFA waives the advance approval requirements, the Contractor shall disclose EVMS changes to the CFA at least 14 calendar days prior to the effective date of implementation.

(f) The Government will schedule integrated baseline reviews as early as practicable, and the review process will be conducted not later than 180 calendar days after—

- (1) Contract award;
- (2) The exercise of significant contract options; and
- (3) The incorporation of major modifications.

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During such reviews, the Government and the Contractor will jointly assess the Contractor's baseline to be used for performance measurement to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

(g) The Contractor shall provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative as necessary to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the performance criteria referenced in paragraph (b) of this clause.

(h) When indicated by contract performance, the Contractor shall submit a request for approval to initiate an over-target baseline or over-target schedule to the Contracting Officer. The request shall include a top-level projection of cost and/or schedule growth, a determination of whether or not performance variances will be retained, and a schedule of implementation for the rebaselining. The Government will acknowledge receipt of the request in a timely manner (generally within 30 calendar days).

(i) Significant deficiencies. (1) The Contracting Officer will provide an initial determination to the Contractor, in writing, of any significant deficiencies. The initial determination will describe the deficiency in sufficient detail to allow the Contractor to understand the deficiency.

(2) The Contractor shall respond within 30 days to a written initial determination from the Contracting Officer that identifies significant deficiencies in the Contractor's EVMS. If the Contractor disagrees with the initial determination, the Contractor shall state, in writing, its rationale for disagreeing.

(3) The Contracting Officer will evaluate the Contractor's response and notify the Contractor, in writing, of the Contracting Officer's final determination concerning—

(i) Remaining significant deficiencies;

(ii) The adequacy of any proposed or completed corrective action;

(iii) System noncompliance, when the Contractor's existing EVMS fails to comply with the earned value management system guidelines in the ANSI/EIA-748; and

(iv) System disapproval, if initial EVMS validation is not successfully completed within the timeframe approved by the Contracting Officer, or if the Contracting Officer determines that the Contractor's earned value management system contains one or more significant deficiencies in high-risk guidelines in ANSI/EIA-748 standards (guidelines 1, 3, 6, 7, 8, 9, 10, 12, 16, 21, 23, 26, 27, 28, 30, or 32). When the Contracting Officer determines that the existing earned value management system contains one or more significant deficiencies in one or more of the remaining 16 guidelines in ANSI/EIA-748 standards, the Contracting Officer will use discretion to disapprove the system based on input received from functional specialists and the auditor.

(4) If the Contractor receives the Contracting Officer's final determination of significant deficiencies, the Contractor shall, within 45 days of receipt of the final determination, either

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correct the significant deficiencies or submit an acceptable corrective action plan showing milestones and actions to eliminate the significant deficiencies.

(j) Withholding payments. If the Contracting Officer makes a final determination to disapprove the Contractor's EVMS, and the contract includes the clause at 252.242- 7005, Contractor Business Systems, the Contracting Officer will withhold payments in accordance with that clause.

(k) With the exception of paragraphs (i) and (j) of this clause, the Contractor shall require its subcontractors to comply with EVMS requirements as follows:

(1) For subcontracts valued at \$100 million or more, the following subcontractors shall comply with the requirements of this clause:

[Contracting Officer to insert names of subcontractors (or subcontracted effort if subcontractors have not been selected) designated for application of the EVMS requirements of this clause.]

(2) For subcontracts valued at less than \$100 million, the following subcontractors shall comply with the requirements of this clause, excluding the requirements of paragraph (c) of this clause:

[Contracting Officer to insert names of subcontractors (or subcontracted effort if subcontractors have not been selected) designated for application of the EVMS requirements of this clause.]

(End of clause)

5252.204-9501 NATIONAL STOCK NUMBERS (NAVAIR) (MAR 2007)

(Applicable to all subcontracts except subcontracts for items that will be incorporated into higher level assemblies where the item is not separately purchasable (such as for spares) and where the item loses its individual identity in the higher level assembly.)

(a) This clause applies to supplies that are stock numbered under Federal Catalog System procedures.

(b) Unless otherwise authorized by the Contracting Officer, in writing, the Contractor shall not deliver any supplies until the supplies have been marked with a National Stock Number. All available National Stock Numbers will be furnished by the Government. If National Stock Numbers are not furnished by the Government in time to meet the delivery schedule for the supplies, the Contractor may present the supplies that are scheduled for delivery to the Contracting Officer for acceptance. The Contracting Officer may accept such supplies without National Stock Numbers and the Government will pay the Contractor therefore, provided that title to the supplies is vested in the Government.

(c) The term "Federal Stock Number" (FSN), which may be referred to in the specifications of this contract or elsewhere in this contract, shall mean "National Stock Number" (NSN), and the term "Federal Item Identification Number", wherever it appears, shall mean "National Item Identification Number".

(As used in the foregoing clause, the term "Contracting Officer" shall mean the "Administrative Contracting Officer" (ACO) with respect to provisioned items and other supplies ordered by the ACO.)

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5252.204-9502 REQUIREMENTS FOR LOCAL SECURITY SYSTEM (NAVAIR) (OCT 2005)

(Applicable to all Purchase Orders.)

The contractor agrees to provide locator information regarding all employees requiring a permanent badge for authorized entrance to the [to be completed at time of award]]. Entrance is authorized by this contract as a result of tasks associated with performance of the Section C - Statement of Work only. Initial information shall be provided as each individual is assigned to this contract by using the Locator Form provided as an attachment to this contract. Thereafter, quarterly reports (due at the beginning of each quarter by the fifth day of the month) will be provided with gains/losses (identification of new and replaced or added individuals) and any changes to current personnel (such as telephone number, building number and room number). A point of contact is to be named on each quarterly report for any questions/additional information needed by the Government recipient. The quarterly reports are to be addressed to [to be completed at time of award]]. All losses are to have the permanent badges returned to [to be completed at time of award]] on the last day of the individual's task requirement.

5252.204-9505 SYSTEM AUTHORIZATION ACCESS REQUEST NAVY (SAAR-N) REQUIREMENTS FOR INFORMATION TECHNOLOGY(IT) (NAVAIR)(NOV 2017)

(Applicable to Purchase Order requiring personnel to access Navy IT resources.)

(a) Contractor personnel assigned to perform work under this contract may require access to Navy Information Technology (IT) resources (e.g., computers, laptops, personal electronic devices/personal digital assistants (PEDs/PDAs), NMCI, RDT&E networks, websites such as MyNAVAIR, and Navy Web servers requiring Common

Access Card (CAC) Public Key Infrastructure (PKI)). Contractor personnel (prime, subcontractor, consultants, and temporary employees) requiring access to Navy IT resources (including those personnel who previously signed SAAR DD Form 2875) shall submit a completed System Authorization Access Request Navy (SAAR-N), OPNAV 5239/14 (Jul 2008) form or latest version thereof, and have initiated the requisite background investigation (or provide proof of a current background investigation) prior to accessing any Navy IT resources. The form and instructions for processing the SAAR-N form are available at: https://navalforms.documentservices.dla.mil/formsDir/_OPNAV_5239_14_7631.pdf. Instruction Note: SAAR-N forms are required to be downloaded and then completed. The "E-MAIL SUBMIT" button on the SAAR-N form is not to be used.

(b) SAAR-N forms will be submitted to the Government Sponsor or Technical Point of Contact (TPOC) via the contractor's Facility Security Officer (FSO). The designated SAAR-N Government Sponsor or TPOC for contractor employees requiring IT access, [fill-in name] shall be responsible for signing and processing the SAAR-N forms. For those contractors that do not have a FSO, SAAR-N forms shall be submitted directly to the designated SAAR-N Government Sponsor or TPOC. Copies of the approved SAAR-N forms may be obtained through the designated SAAR-N Government Sponsor or TPOC. Requests for access should be routed through the NAVAIR_SAAR.fct@navy.mil mailbox.

(c) In order to maintain access to Navy IT resources, the contractor shall ensure completion of initial and annual IA training, monitor expiration of requisite background investigations, and initiate re-investigations

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as required. If requested, the contractor shall provide to the designated SAAR-N Government Sponsor or TPOC documentation sufficient to prove that it is monitoring/tracking the SAAR-N requirements for its employees who are accessing Navy IT resources. For those contractor personnel not in compliance with the requirements of this clause, access to Navy IT resources will be denied/revoked.

(d) The SAAR-N form remains valid throughout contractual performance, inclusive of performance extensions and option exercises where the contract number does not change. Contractor personnel are required to submit a new SAAR-N form only when they begin work on a new or different contract.

5252.211-9510 CONTRACTOR EMPLOYEES (NAVAIR) (MAY 2011)

(Applicable to all Purchase Orders.)

(a) In all situations where contractor personnel status is not obvious, all contractor personnel are required to identify themselves to avoid creating an impression to the public, agency officials, or Congress that such contractor personnel are Government officials. This can occur during meeting attendance, through written (letter or email) correspondence or verbal discussions (in person or telephonic), when making presentations, or in other situations where their contractor status is not obvious to third parties. This list is not exhaustive. Therefore, the contractor employee(s) shall:

- (1) Not by word or deed give the impression or appearance of being a Government employee;
- (2) Wear appropriate badges visible above the waist that identify them as contractor employees when in Government spaces, at a Government-sponsored event, or an event outside normal work spaces in support of the contract/order;
- (3) Clearly identify themselves as contractor employees in telephone conversations and in all formal and informal written and electronic correspondence. Identification shall include the name of the company for whom they work;
- (4) Identify themselves by name, their company name, if they are a subcontractor the name of the prime contractor their company is supporting, as well as the Government office they are supporting when participating in meetings, conferences, and other interactions in which all parties are not in daily contact with the individual contractor employee; and
- (5) Be able to provide, when asked, the full number of the contract/order under which they are performing, and the name of the Contracting Officer's Representative.

(b) If wearing a badge is a risk to safety and/or security, then an alternative means of identification maybe utilized if endorsed by the Contracting Officer's Representative and approved by the Contracting Officer.

(c) The Contracting Officer will make final determination of compliance with regulations with regard to proper identification of contractor employees.

5252.215-9505 EXCLUSIVE TEAMING ARRANGEMENTS THAT INHIBIT COMPETITION (NAVAIR)(OCT 2005)

(Applicable to all Purchase Orders.)

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Offerors who propose teaming arrangements on an exclusive basis will be evaluated to determine whether such teaming agreements inhibit competition. In order for the Government to evaluate whether the proposed agreements inhibit competition, offerors are required to (1) provide a copy of all teaming arrangements, and (2) explain why the teaming arrangements do not inhibit competition. The documentation must include, but is not limited to: structure of the teaming arrangement, responsibilities, and liabilities; financial responsibility; managerial responsibility and accountability; and applicable legal documents. The burden of proving that any exclusive teaming arrangement proposed does not restrict competition shall rest with the offeror. Offerors are advised that should the Government determine that any such proposed, exclusive teaming arrangement inhibits competition, (1) that determination may render the offeror's proposal ineligible for award, and (2) the Contracting Officer shall forward the matter to the appropriate authorities as prescribed by Federal Acquisition Regulation Part 3.3.

5252.219-9501 LESS THAN FIVE PERCENT SMALL DISADVANTAGED BUSINESS SUBCONTRACTING GOAL (NAVAIR) (MAR 1999)

Applicable to Orders where Seller is required to submit a Small Business Subcontracting Plan.

Offerors submitting Small and Small Disadvantaged Business Subcontracting Plans per FAR Clause 52.219-9, "Small Business Subcontracting Plan" and DFARS Clause 252.219-7003, "Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DoD Contracts)" which reflect a Small Disadvantaged Business (SDB) goal of less than five percent shall also provide, as a part of the subcontracting plan submission, those extenuating circumstances of why a five percent SDB goal cannot be proposed.

5252.223-9501 MATERIAL SAFETY DATA SHEET (MSDS) (NAVAIR) (APR 2009)

(Applicable to all Purchase Orders.)

(a) The contractor shall forward an electronic copy of the Material Safety Data Sheet (MSDS) required under FAR Clause 52.223-3, "Hazardous Material Identification and Material Safety Data", to Buyer.

(b) One copy of the MSDS shall be enclosed with the shipping documents. If the shipment is received without an attached copy of the MSDS, the Government has the right to refuse receipt.

5252.223-9502 HAZARDOUS MATERIAL (NAVAIR)(APR 2009)

(Applicable to all Purchase Orders that include hazardous material.)

(a) Packaging, Packing, Marking, Labeling and Certification of Hazardous materials for shipment by any mode or combination of transportation modes shall be prepared (properly classed, described, packaged, marked, labeled, transport vehicle placarded, etc.) for shipment in accordance with MIL-STD-129 and Title 49 Code of Federal Regulations (CFR), Part 100-199 as applicable. In the event of any contradictions between the documents, 49 CFR shall govern or the applicable modal transport regulation.

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(b) In the event of a conflict between specific requirements in the contract or order and existing applicable modal transport regulations, the regulations shall take precedence. Under no circumstances shall the contractor knowingly use materials, markings or procedures that are not in accordance with laws and regulations applicable to the mode of transportation employed.

(c) To ascertain which Department of Defense, or local installation regulations, concerning hazardous materials may have impact on this contract, the contractor should contact the Buyer.

5252.228-9500 ADDITIONAL DEFINITIONS WITH RESPECT TO “GROUND AND FLIGHT RISK” CLAUSE (NAVAIR) (DEC 1991)

(Applicable to all Purchase Orders.)

For the purpose of complying with the “Ground and Flight Risk” clause, the contractor’s premises shall be deemed to be [To be completed by Offeror (identify whether site, factory, headquarters, etc.)], located at [To be completed by Offeror].

5252.245-9520 ASSOCIATE CONTRACTOR CLAUSE (NAVAIR) (OCT 2005)

(Applicable to all Purchase Orders.)

(a)(1) This clause is intended to ensure that there will be appropriate coordination/integration of work by the E-XX TWS associate contractors to ensure complete compatibility between equipment, data, and services for the E-XX TWS to prevent unnecessary duplication of effort and in order to maximize commonality.

(2) The price of this contract makes provision for the performance of the work called for in the Associate Contractor Agreements as required by this clause, in support of this contract.

(b) The Associate Contractors are as follows:

Contractors:

- Identities of other associate contractors will be made available upon request

(c) The contractor shall work and maintain close liaison with the associate contractors listed in paragraph (b) above. In order to assure accomplishment of this objective, the contractor shall enter into a written Associate Contractor Agreement with each of the other applicable associate contractors.

(d) Each Associate Contractor Agreement between the contractor and an associate contractor shall provide for complete and unbiased exchange of technical information and interface data (data) relating to their detailed responsibilities and procedures. The following is a guide to be used in the development of each agreement:

(1) Identification of the data to be furnished among the associate contractors to facilitate procedures/schedules for the exchange of data. Descriptive detail of the data to be furnished or exchanged, with a specific date for delivery of each item thereof and containing such other

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mutual covenants and agreements that may be desirable or required to assure delivery or exchange of said data in a timely manner and in a condition suitable for use by the recipient. (For example, this may extend to all information pertaining and essential to the design, development, fabrication, test, interface, modification and installation of equipment and provision of services hereunder to the extent that each party may require such information to ensure the compatibility of their respective equipment, data and services.)

(2) Services to be provided by one contractor to another (including such services as clerical support to visiting associate contractor personnel, unscheduled maintenance and technical support for equipment, etc.) to facilitate the performance of the respective contracts and the period(s) of time the services are to be provided to assure necessary interface actions and support activities.

(3) The materials to be provided to each other by the respective contractors in performance.

(4) The facilities and their location to be provided by each contractor to accommodate personnel assigned to provide the associate contractor's integration and support services, assurance of adequate working areas, power requirements, office space and communication equipment which are essential for timely completion of the integration/support services.

(5) Delineation of respective interface responsibilities.

(6) Provision for furnishing copies to communications relative to performance of associate contractor responsibilities.

(e) In the event this exchange of data results in the need to obtain access to proprietary information, the contractor agrees to include in the Associate Contractor Agreements the terms and conditions under which the contractor and associate contractors agree to exchange such proprietary information. The Contractor hereby agrees not to use, modify, reproduce, release, perform, display, or disclose such proprietary information unless specifically authorized in writing to do so under the Associate Contractor Agreements.

(f) The Associate Contractor Agreements shall permit the exchange of data between the associate contractors. The Agreements shall be structured so that all contractors and associate contractors are obligated to protect proprietary information from all unauthorized use or disclosure for as long as such information remains proprietary.

(g) "Proprietary Information" means information that embodies trade secrets developed at private expense or business, commercial, or financial information that is privileged or confidential provided that such information:

[X] is not known or available from other sources without obligations concerning its confidentiality;

[X] has not been made available by the owners to others without obligation concerning its confidentiality;

[X] is not already available to the Government without obligation concerning its confidentiality; and

[X] has not been developed independently by persons who have had no access to the information.

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(h) Each Associate Contractor Agreement shall be submitted to the Government for review prior to execution. Following Government concurrence and execution by both associate contractors, each Associate Contractor Agreement may be made an attachment to this contract. The Associate Contractor Agreements are for information purposes only and shall not be subject to or governed by this contract. In the event of a conflict between the terms of this contract and terms of the aforesaid agreement, the terms of this contract shall control.

(i) Where the contractor and an associate contractor fail to agree upon action to be taken in connection with their respective responsibilities, each contractor shall promptly notify the cognizant PCO and furnish the contractor's recommendations for a solution. The contractor shall not be relieved of its obligations to make timely deliveries or be entitled to any other adjustment because of the contractor and its associate failure to: (1) resolve Associate Contractor Agreements disputes; (2) promptly refer matters to the PCO; or (3) to implement PCO directions.

5252.245-9520 ASSOCIATE CONTRACTOR CLAUSE (NAVAIR) (OCT 2005) - ALT I (AUG 2003)

(Applicable to all Purchase Orders.)

(j) Certain data items identified in the DD Form 1423, Contractor Data Requirements List, require appropriate and timely data inputs from associate contractor(s) to permit the contractor to complete integrated data efforts. Should the lack of timely associate contractor support impede the contractor in discharging this obligation, the contractor shall accomplish the basic release of the integrated data less the associate contractor(s) input. The contractor shall update and forward the integrated data within thirty (30) days after receipt of associate contractor(s) input data.

5252.247-9508 PROHIBITION AND LIMITATIONS FOR PACKAGING MATERIALS (NAVAIR) (AUG 2019)

(Applicable to all Orders for material.)

(a) The use of loose fill materials, asbestos, excelsior, newspaper and shredded paper (all types) are prohibited. In addition, all Wood Packaging Materials (WPM) shall be heat treated or chemically treated in accordance with the requirements of the International Standards for Phytosanitary Measures (ISPM) 15:2009, "Regulation of Wood Packaging Material in International Trade."

5252.247-9514 TECHNICAL DATA PACKING INSTRUCTIONS (NAVAIR)(SEP 1999)

(Applicable to all Purchase Orders that include Technical Data and Information.)

(a) Technical Data and Information shall be packed and packaged for domestic shipment in accordance with best commercial practices. The package or envelope should be clearly marked with any special markings specified in this contract (or delivery/task order), e.g., Contract Number, CLIN, Device No., and document title must be on the outside of the package. Classified reports, data and documentation, if applicable, shall be prepared for shipment in accordance with Defense Industrial Manual for Safeguarding Classified Information, DoD 5220.22M.