

Revision No. 0, dated Jun 6, 2023

Flowdown Attachment

RIS FDA-2023.0518

Contract No.: 2023-23021400002**Project Description:** CORE 4**DPAS Rating:** DO-A7

The following customer contract 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. 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, 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 CONTRACT REQUIREMENTS:

2. NON-PUBLICITY

(Applicable to all Purchase Orders.)

(a) The Contractor shall not use or allow to be used any aspect of this solicitation and/or contract for publicity. "Publicity" means, but is not limited to, advertising (e.g. trade magazines, newspapers, Internet, radio, television etc.), communications with the media, marketing, or a reference for new business.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in each subcontract issued under this contract.

3. PROHIBITION AGAINST RECRUITING ON SPONSOR CONTROLLED FACILITIES

(Applicable to all Purchase Orders.)



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Any Contractor or subcontractor employee who violates this policy may be denied further access to Sponsor controlled facilities and systems. The Contractor shall emphasize this fact to its employees and subcontractors and shall include the substance of this clause in each subcontract issued under this contract.

4. RESTRICTIONS REGARDING FORMER SPONSOR EMPLOYEES

(Applicable to all Purchase Orders.)

(a) Except as authorized in writing by the Contracting Officer, the Contractor shall not use any person in the direct performance of this contract who:

1. Has resigned from employment with the Sponsor within the previous 18 months;
2. Has been barred from performing Sponsor contracts for a period of time as a result of a recommendation from a Sponsor Advisory Board; or
3. Was terminated from employment with the Sponsor

(b) Paragraph (a) includes the use of a person as a contractor employee, subcontractor employee, consultant, independent contractor, or similar arrangement.

(c) Paragraph (a) (l) does not apply to persons who retired from the Sponsor.

(d) The Contractor agrees to include in each subcontract a clause requiring compliance with these restrictions by the subcontractor and succeeding levels of subcontractors.

6. PROTECTION OF INFORMATION

(Applicable to all Purchase Orders.)

(a) It is the Government's intent to ensure proper handling of sensitive planning, budgetary, acquisition, and contracting information that will be provided to, or developed by, the contractor during contract performance. It is also the Government's intent to protect the proprietary rights of industrial contractors whose data the contractor may receive in fulfilling its contractual commitments hereunder.

(b) Accordingly, the contractor agrees that it will not disclose, divulge, discuss, or otherwise reveal information to anyone or any organization not authorized access to such information without the express written approval of the Contracting Officer. The contractor shall require that each of its employees assigned to work under this contract, and each subcontractor and its employees assigned to work on subcontracts issued hereunder, execute nondisclosure agreements acknowledging the above restrictions before providing them access to such information.

(c) The contractor agrees to include in each subcontract a clause requiring compliance by the subcontractor and succeeding levels of subcontractors with the terms and conditions herein.

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7. EQUAL EMPLOYMENT OPPORTUNITY

(Applicable to all Purchase Orders.)

(a) The Contractor shall comply with all applicable Federal and State equal employment opportunity laws and regulations and Sponsor policies and practices with respect to equal employment opportunity and a harassment-free workplace whenever work is being performed on federal property.

(b) If either the Contracting Officer or a designated representative of the Sponsor's Office of Equal Employment Opportunity provides the Contractor notice of noncompliance with the applicable statutory or regulatory requirements which are enumerated in paragraph (a), the Contractor, at no cost to the Government, shall promptly take appropriate action. A copy of any documentation shall be provided to the designated representative of the Sponsor's Office of Equal Employment Opportunity. If the Contractor fails or refuses to promptly take appropriate action, the Contracting Officer may issue an order stopping all or part of the work until such appropriate action is taken.

(c) Nothing in this clause shall relieve the Contractor from full performance of the requirements of this contract, nor shall it provide the basis for any claims against the Government.

(d) The Contractor shall provide oral notification within two business days and written notification within five business days to the Contracting Officer of the Contractor's receipt of a claim made by a Contractor employee alleging any violation of an equal employment opportunity requirement connected to performance of this contract or connected to activities occurring on Federal property.

(e) The Government may elect to conduct an investigation surrounding the claim if it is potentially a joint employer under EEOC Notice 915.002. In all such instances, the Contractor shall cooperate with the Government's investigation. In accordance with applicable law and to the extent possible, the Government shall treat all information obtained from the investigation as information proprietary to the Contractor.

(f) The Contractor's noncompliance with the provisions of this clause may be grounds for termination under the default provisions of this contract.

(g) The Contractor shall insert this clause, including this paragraph (g) in all subcontracts, with appropriate changes in the designation of the parties. The prime contractor shall provide the Contracting Officer with a copy of all notifications made pursuant to the provisions of this clause.

8. WORKPLACE HEALTH AND SAFETY

(Applicable to all Purchase Orders.)

(a) The Contractor shall comply with the Occupational Safety and Health Act (OSHA) of 1970 (29 U.S.C. Section 651et seq.) and regulations promulgated thereunder including, but not limited to, the standards issued by the Secretary of Labor at Part 1926 and Part 1910 of Title 29 of the Code of Federal Regulations. The Contractor shall also comply with all applicable state occupational safety and health laws and regulations. Noncompliance shall be grounds for termination of this contract in accordance with its default provisions.

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(b) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition that poses a serious or imminent danger to health or safety, the Contracting Officer, or the authorized representative of the Contracting Officer, shall notify the Contractor orally, with written confirmation from the Contracting Officer, and request immediate initiation of collective action. This notice, when delivered to the Contractor or the Contractor's representative at the worksite, shall be deemed sufficient notice of the noncompliance and that collective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take collective action, the Contracting Officer may issue an order stopping all or part of the work until the Contractor takes satisfactory corrective action. The Contracting Officer or the Authorized representative of the Contracting Officer may inform the Occupational Safety and Health Administration (OSHA), or other cognizant federal, state, or local officials, of such notification. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(c) The Contractor shall insert this clause, including this paragraph (c) in all subcontracts, with appropriate changes in the designation of the parties. The prime contractor shall provide the Contracting Officer with a copy of all notifications made by the prime contractor to a subcontractor pursuant to paragraph (b) of this clause.

9. WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT)

(Applicable to all Purchase Orders where work will be performed outside the United States.)

The Contractor shall include the substance of this clause, including this paragraph (h) in all subcontracts under this contract when Subcontractor employees will perform work outside the United States. The Contractor shall be responsible for compliance by any Subcontractor or lower-tier Subcontractor with the provisions set forth in paragraphs (a) through (g) of this clause.

10. PERSONAL CONDUCT

(Applicable to all Purchase Orders which require work to be done on a Government site.)

(a) The Contractor, subcontractors, and contractor consultants, (collectively known as Contractor) and its employees shall comply with the conduct requirements in effect at the Government's work site. Government work site includes Government-designated facilities in the field. The Government reserves the right to exclude or remove from the site any employee of the Contractor whom the Government deems careless, uncooperative, or has violated the Sponsor's anti-harassment policy.

(b) The Contractor shall, on at least an annual basis, identify to its employees what constitutes harassing behavior and provide written notification to its employees that, as set forth under relevant Government Regulations, the Sponsor has no tolerance for harassing behavior which includes, but is not limited to:

1. Unwelcome verbal or physical conduct of a sexual nature when the submission to or rejection of that conduct would negatively affect an individual's work performance or create a hostile or offensive work environment. Examples may include, but are not limited to, unwelcome demands, propositions, advances, teasing, dirty jokes, remarks, or questions of a sexual nature; offensive gestures and touching; sexually



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demeaning words used to describe an individual; and the display in the workplace of sexually offensive objects or pictures;

2. Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual or group, or creates a hostile or offensive work environment and is based on one of the federally protected categories (for example, sex, race, national origin, religion, age, color, disability, or reprisal for opposing employment discrimination and/or for participating in the EEO process, sexual orientation, or status as a parent).

Examples may include, but are not limited to, epithets, slurs, negative stereotyping, threats, intimidation, and other hostile acts. These acts constitute nonsexual harassment whether they are expressed directly toward an individual or group or are contained in materials that are circulated in the workplace, placed on walls or elsewhere on Government premises; and/or

3. Verbal or physical conduct that unreasonably interferes (for example, repetitive and non-trivial) with the work performance or sense of safety of others in the workplace, but is not based on factors protected by federal law. Examples may include, but are not limited to, coarse language, threatening or boorish behavior, and severe and blatant insensitivities to coworkers. The Contractor may seek more specific guidance on what constitutes harassing behavior via the CO or COTR.

(c) Any Contractor employee who is determined to be responsible for harassment may be immediately escorted by authorized personnel from the premises and denied further access to any other Government premises.

(d) Exclusion or removal from Government premises of the Contractor employee under the circumstances described in this clause shall not relieve the Contractor from full performance of the requirements of this contract, nor will it provide the basis for any claims against the Government. Contractor shall acknowledge to the Contracting Officer in writing within five business days of exclusion or removal that such exclusion or removal has occurred and contract performance will continue un-impacted.

(e) The Contractor shall insert this clause, including this paragraph (e), in all subcontracts and consultant contracts/agreements.

11. GOVERNMENT PROPERTY

(Applicable to all Purchase Orders involving Government property.)

(a) General: The Contractor shall maintain adequate property control procedures, records, and a system of identification of all Government property accountable to this contract in accordance with FAR Part 45 and the applicable Government Property clause incorporated by reference in Section I. The Contractor must include this clause in all subcontracts that utilize Government property.

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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
52.203-13	Contractor Code of Business Ethics and Conduct (Jun 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, (i) that have a value more than \$6 million; and (ii) that have a performance period of more than 120 days. (In Paragraph (b)(3)(i), the meaning of "agency office of the Inspector General" and "Contracting Officer" does not change, in Paragraph (b)(3)(ii) the meaning of "Government" does not change, and in Paragraphs (b)(3)(iii) and (c)(2)(ii)(F), the meaning of "OIG of the ordering agency", "IG of the agency" "agency OIG" and "Contracting Officer" do not change.	X	X
52.203-16	Preventing Personal Conflicts of Interest (Jun 2020)	Applicable to Orders that exceed the Simplified Acquisition Threshold and include a requirement for services that involve performance of acquisition functions closely associated with inherently governmental functions for, or on behalf of, a Federal agency or department.	X	X
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6.	X	X
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
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jun 2020)	Applicable to all Orders exceeding \$35,000, except for Orders for commercially available off-the-shelf items.	X	X
52.215-11	Price Reduction for Defective Certified Cost or Pricing Data -	Applicable to all Orders that require the Seller to provide certified cost or pricing		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
	Modifications (Jun 2020)	data. This clause does not apply to Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.		
52.215-12	Subcontractor Certified Cost or Pricing Data (Jun 2020)	Applicable to Orders in excess of \$2 Million. This clause does not apply to Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.		X
52.215-13	Subcontractor Certified Cost or Pricing Data--Modifications (Jun 2020)	Applicable to Orders that exceed \$2 Million. This clause does not apply to Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.		X
52.215-14	Integrity of Unit Prices (Jun 2020)	Applicable to Orders exceeding the Simplified Acquisition Threshold less paragraph (b) in the clause, except for construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; and petroleum products.		X
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications (Oct 2010)	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
52.222-35	Equal Opportunity for Veterans (Oct 2015)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, of \$150,000 or more. Foreign Sellers: Applicable to Orders when the listing of employment openings for purposes of work to be performed under this Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.	X	X
52.222-37	Employment Reports on Veterans (Feb 2016)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, of \$150,000 or more. Foreign Sellers: Applicable to Orders when the listing of employment openings for purposes of	X	X

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			C	NC
		work to be performed under this Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.		
52.222-41	Service Contract Labor Standards (May 2014)	Applicable to all Orders that are subject to the Service Contract Labor Standards statute.	X	X
52.222-50	Combating Trafficking in Persons (Oct 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, except that the requirements in paragraph (h) of the clause apply only to (i) supplies that are other than commercially available off-the-shelf items that are acquired outside the United States, or for services to be performed outside the United States, and (ii) that exceed \$550,000 in value.	X	X
52.222-55	Minimum Wages Under Executive Order 13658 (Nov 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.	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 be outside the United States and its outlying areas.		X
52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016)	Applicable to all Orders that that include the maintenance, service, repair, or disposal of (i) Refrigeration equipment, such as refrigerators, chillers, or freezers; or (ii) Air conditioners, including air	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
		conditioning systems in motor vehicles.		
52.223-16	Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015)	Applicable to all Orders for personal computer products as defined in the clause.	X	X
52.225-1	Buy American-Supplies (Jan 2021)	Applicable to all Orders (1) with a value exceeding the micro-purchase threshold but not exceeding \$25,000, and (2) in Orders exceeding \$25,000, if none of the clauses prescribed in 25.1101(b) and (c) apply, except if (i) the solicitation is restricted to domestic end products in accordance with subpart 6.3; (ii) the acquisition is for 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.	X	X
52.225-3	Buy American-Free Trade Agreements-Israeli Trade Act (Jan 2021)	Applicable to all Orders if (A) the acquisition is for supplies, or for services involving the furnishing of supplies, for use within the United States, and the acquisition value is \$25,000 or more, but is less than \$182,000; (B) the acquisition is not for information technology that is a commercial product, using fiscal year 2004 or subsequent fiscal year funds; and (C) no exception in 25.401 applies.	X	X
52.227-14	Rights in Data – General (May 2014) - Alt II (Dec 2007)	Applicable to all Orders that involve "Data" as defined in the clause.	X	X
52.227-14	Rights in Data – General (May 2014) - Alt III (Dec 2007)	Applicable to all Orders that involve "Data" as defined in the clause.	X	X
52.227-16	Additional Data Requirements (Jun 1987)	Applicable to all Orders involving experimental, developmental, research or demonstration work (other than basic or applied research to be performed solely by a university or college under \$500K).		X
52.227-17	Rights in Data -- Special Works (Dec 2007)	Applicable to Orders for the for the production or compilation of data (other	X	X

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			C	NC
		than limited rights data or restricted computer software) for the Government's internal use, or when there is a specific need to limit distribution and use of the data or to obtain indemnity for liabilities that may arise out of the content, performance, or disclosure of the data. Examples are in 27.405-1.		
52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	Applicable to all Orders involving EULA, TOS, or similar software agreement.	X	X
52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, with small business concerns, including Orders with small business concerns for the acquisition of commercial items.	X	X
52.237-3	Continuity of Services (Jan 1991)	Applicable to Orders when services under the contract are considered vital to the Government and must be continued without interruption.	X	X
52.243-2	Changes-Cost-Reimbursement (Aug 1987) - Alternate II (Apr 1984)	Applicable to cost-reimbursement Orders.	X	X
52.244-6	Subcontracts for Commercial Items (Jul 2021)	Applicable to all Orders.	X	X
52.245-1	Government Property (Jan 2017)	Applicable to all Orders when Government property is acquired or furnished (see PT-001).	X	X
52.246-26	Reporting Nonconforming Items (Jun 2020)	Except as provided in paragraph (g)(2) of the clause, this clause is applicable to Orders for (i) items subject to higher-level quality standards in accordance with the clause at FAR 52.246-11, Higher-Level Contract Quality Requirement; (ii) items that Buyer determines to be critical items for which use of the clause is appropriate; (iii) electronic parts or end items, components, parts, or materials containing electronic parts, whether or not covered in paragraph (g)(1)(i) or (ii)		X



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			C	NC
		of the clause, if the Order exceeds the Simplified Acquisition Threshold and this Order is under a Department of Defense contract (as required by paragraph (c)(4) of section 818 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81)); or (iv) for the acquisition of services, if Seller will furnish, as part of the service, any items that meet the criteria specified in paragraphs (g)(1)(i) through (g)(1)(iii) of the clause. Seller shall not submit a report as required by (b)(4) of the clause if Seller is a foreign corporation or partnership that does not have an office, place of business, or fiscal paying agent in the United States.		

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

52.203-14 DISPLAY OF HOTLINE POSTER(S) (JUN 2020)

(Applicable to Orders over \$6,000,000, except for Orders performed entirely outside the United States or for the acquisition of a commercial item. Applies to Non-Commercial procurements only.)

(a) Definition.

United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.

(b) Display of fraud hotline poster(s). Except as provided in paragraph (c)—

(1) During contract performance in the United States, the Contractor shall prominently display in common work areas within business segments performing work under this contract and at contract work sites-

(i) Any agency fraud hotline poster or Department of Homeland Security (DHS) fraud hotline poster identified in paragraph (b)(3) of this clause; and

(ii) Any DHS fraud hotline poster subsequently identified by the Contracting Officer.

(2) 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 poster(s) at the website.

(3) Any required posters may be obtained as follows:



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Poster(s)	Obtain from
_____	_____
_____	_____

(Contracting Officer shall insert—

(i) Appropriate agency name(s) and/or title of applicable Department of Homeland Security fraud hotline poster); and

(ii) The website(s) or other contact information for obtaining the poster(s).)

(c) If the Contractor has implemented a business ethics and conduct awareness program, including a reporting mechanism, such as a hotline poster, then the Contractor need not display any agency fraud hotline posters as required in paragraph (b) of this clause, other than any required DHS posters.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts that exceed the threshold specified in Federal Acquisition Regulation 3.1004(b)(1) on the date of subcontract award, except when the subcontract—

- (1) Is for the acquisition of a commercial item; or
- (2) Is performed entirely outside the United States.

(End of clause)

52.209-6 PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUN 2020)

(Applicable to all Purchase Orders exceeding \$35,000, except for Purchase 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 item (as defined in paragraph (1) of the definition 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
- (2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

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(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 items, 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)

52.216-7 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

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representative of the Contracting Officer, in such form 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

(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—

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- (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:
- (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.

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- (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).
- (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.

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(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.

(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)(I) 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.

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(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.

(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—

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- (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;

(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)

52.225-19 CONTRACTOR PERSONNEL IN A DESIGNATED OPERATIONAL AREA OR SUPPORTING A DIPLOMATIC OR CONSULAR MISSION OUTSIDE THE UNITED STATES (MAY 2020)

(Applicable to all Orders that require Seller personnel to perform outside the United States: (1) In a designated operational area during— (i) contingency operations; (ii) humanitarian or peacekeeping operations; (iii) other military operations; or military exercises, when designated by the Combatant Commander; or (2) When supporting a diplomatic or consular mission— (i) that has been designated by the Department of State as a danger pay post (see <https://aoprals.state.gov/>); or (ii) that the USG has indicated is subject to this clause. Applies to Commercial and Non-Commercial procurements.)

(a) Definitions. As used in this clause-

Chief of mission means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) of the Foreign Service Act of 1980 (Public Law 96-465) to be temporarily in charge of such a mission or office.

Combatant commander means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

Designated operational area means a geographic area designated by the combatant commander or subordinate joint force commander for the conduct or support of specified military operations.

"Supporting a diplomatic or consular mission" means performing outside the United States under a contract administered by Federal agency personnel who are subject to the direction of a chief of mission.

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(b) General. (1) This clause applies when Contractor personnel are required to perform outside the United States-

(i) In a designated operational area during-

(A) Contingency operations;

(B) Humanitarian or peacekeeping operations; or

(C) Other military operations; or military exercises, when designated by the Combatant Commander; or

(ii) When supporting a diplomatic or consular mission-

(A) That has been designated by the Department of State as a danger pay post (see <https://aoprals.state.gov/>); or

(B) That the Contracting Officer has indicated is subject to this clause.

(2) Contract performance may require work in dangerous or austere conditions. Except as otherwise provided in the contract, the Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are civilians.

(i) Except as provided in paragraph (b)(3)(ii) of this clause, and in accordance with paragraph (i)(3) of this clause, Contractor personnel are only authorized to use deadly force in self-defense.

(ii) Contractor personnel performing security functions are also authorized to use deadly force when use of such force reasonably appears necessary to execute their security mission to protect assets/persons, consistent with the terms and conditions contained in the contract or with their job description and terms of employment.

(4) Service performed by Contractor personnel subject to this clause is not active duty or service under 38 U.S.C. 106 note.

(c) Support. Unless specified elsewhere in the contract, the Contractor is responsible for all logistical and security support required for Contractor personnel engaged in this contract.

(d) Compliance with laws and regulations. The Contractor shall comply with, and shall ensure that its personnel in the designated operational area or supporting the diplomatic or consular mission are familiar with and comply with, all applicable-

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Force protection, security, health, or safety orders, directives, and instructions issued by the Chief of Mission or the Combatant Commander; however, only the Contracting Officer is authorized to modify the terms and conditions of the contract.

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(e) Preliminary personnel requirements. (1) Specific requirements for paragraphs (e)(2)(i) through (e)(2)(vi) of this clause will be set forth in the statement of work, or elsewhere in the contract.

(2) Before Contractor personnel depart from the United States or a third country, and before Contractor personnel residing in the host country begin contract performance in the designated operational area or supporting the diplomatic or consular mission, the Contractor shall ensure the following:

(i) All required security and background checks are complete and acceptable.

(ii) All personnel are medically and physically fit and have received all required vaccinations.

(iii) All personnel have all necessary passports, visas, entry permits, and other documents required for Contractor personnel to enter and exit the foreign country, including those required for in-transit countries.

(iv) All personnel have received-

(A) A country clearance or special area clearance, if required by the chief of mission; and

(B) Theater clearance, if required by the Combatant Commander.

(v) All personnel have received personal security training. The training must at a minimum-

(A) Cover safety and security issues facing employees overseas;

(B) Identify safety and security contingency planning activities; and

(C) Identify ways to utilize safety and security personnel and other resources appropriately.

(vi) All personnel have received isolated personnel training, if specified in the contract. Isolated personnel are military or civilian personnel separated from their unit or organization in an environment requiring them to survive, evade, or escape while awaiting rescue or recovery.

(vii) All personnel who are U.S. citizens are registered with the U.S. Embassy or Consulate with jurisdiction over the area of operations on-line at <http://www.travel.state.gov>.

(3) The Contractor shall notify all personnel who are not a host country national or ordinarily resident in the host country that-

(i) If this contract is with the Department of Defense, or the contract relates to supporting the mission of the Department of Defense outside the United States, such employees, and dependents residing with such employees, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States (see the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261 et seq.);

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(ii) Pursuant to the War Crimes Act, 18 U.S.C. 2441, Federal criminal jurisdiction also extends to conduct that is determined to constitute a war crime when committed by a civilian national of the United States; and

(iii) Other laws may provide for prosecution of U.S. nationals who commit offenses on the premises of United States diplomatic, consular, military or other United States Government missions outside the United States (18U.S.C.7(9)).

(f) Processing and departure points. The Contractor shall require its personnel who are arriving from outside the area of performance to perform in the designated operational area or supporting the diplomatic or consular mission to-

(1) Process through the departure center designated in the contract or complete another process as directed by the Contracting Officer;

(2) Use a specific point of departure and transportation mode as directed by the Contracting Officer; and

(3) Process through a reception center as designated by the Contracting Officer upon arrival at the place of performance.

(g) Personnel data. (1) Unless personnel data requirements are otherwise specified in the contract, the Contractor shall establish and maintain with the designated Government official a current list of all Contractor personnel in the areas of performance. The Contracting Officer will inform the Contractor of the Government official designated to receive this data and the appropriate system to use for this effort.

(2) The Contractor shall ensure that all employees on this list have a current record of emergency data, for notification of next of kin, on file with both the Contractor and the designated Government official.

(h) Contractor personnel. The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any Contractor personnel who fail to comply with or violate applicable requirements of this contract. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including termination for default or cause.

(i) Weapons. (1) If the Contracting Officer, subject to the approval of the Combatant Commander or the Chief of Mission, authorizes the carrying of weapons-

(i) The Contracting Officer may authorize an approved Contractor to issue Contractor-owned weapons and ammunition to specified employees; or

(ii) The _____ [Contracting Officer to specify individual, e.g., Contracting Officer Representative, Regional Security Officer, etc,] may issue Government-furnished weapons and ammunition to the Contractor for issuance to specified Contractor employees.

(2) The Contractor shall provide to the Contracting Officer a specific list of personnel for whom authorization to carry a weapon is requested.

(3) The Contractor shall ensure that its personnel who are authorized to carry weapons-

(i) Are adequately trained to carry and use them-

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(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the Combatant Commander or the Chief of Mission; and

(C) In compliance with applicable agency policies, agreements, rules, regulations, and other applicable law;

(ii) Are not barred from possession of a firearm by 18U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the Combatant Commander or the Chief of Mission regarding possession, use, safety, and accountability of weapons and ammunition.

(4) Upon revocation by the Contracting Officer of the Contractor's authorization to possess weapons, the Contractor shall ensure that all Government-furnished weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(5) Whether or not weapons are Government-furnished, all liability for the use of any weapon by Contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

(j) Vehicle or equipment licenses. Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the area of performance.

(k) Military clothing and protective equipment. (1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized by the Combatant Commander. If authorized to wear military clothing, Contractor personnel must wear distinctive patches, armbands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures.

(2) Contractor personnel may wear specific items required for safety and security, such as ballistic, nuclear, biological, or chemical protective equipment.

(l) Evacuation. (1) If the Chief of Mission or Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide to United States and third country national Contractor personnel the level of assistance provided to private United States citizens.

(2) In the event of a non-mandatory evacuation order, the Contractor shall maintain personnel on location sufficient to meet contractual obligations unless instructed to evacuate by the Contracting Officer.

(m) Personnel recovery. (1) In the case of isolated, missing, detained, captured or abducted Contractor personnel, the Government will assist in personnel recovery actions.

(2) Personnel recovery may occur through military action, action by non-governmental organizations, other Government-approved action, diplomatic initiatives, or through any combination of these options.

(3) The Department of Defense has primary responsibility for recovering DoD contract service employees and, when requested, will provide personnel recovery support to other agencies in accordance with DoD Directive 2310.2, Personnel Recovery.

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(n) Notification and return of personal effects. (1) The Contractor shall be responsible for notification of the employee-designated next of kin, and notification as soon as possible to the U.S. Consul responsible for the area in which the event occurred, if the employee-

- (i) Dies;
- (ii) Requires evacuation due to an injury; or
- (iii) Is isolated, missing, detained, captured, or abducted.

(2) The Contractor shall also be responsible for the return of all personal effects of deceased or missing Contractor personnel, if appropriate, to next of kin.

(o) Mortuary affairs. Mortuary affairs for Contractor personnel who die in the area of performance will be handled as follows:

(1) If this contract was awarded by DoD, the remains of Contractor personnel will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(2) (i) If this contract was awarded by an agency other than DoD, the Contractor is responsible for the return of the remains of Contractor personnel from the point of identification of the remains to the location specified by the employee or next of kin, as applicable, except as provided in paragraph (o)(2)(ii) of this clause.

(ii) In accordance with 10 U.S.C. 1486, the Department of Defense may provide, on a reimbursable basis, mortuary support for the disposition of remains and personal effects of all U.S. citizens upon the request of the Department of State.

(p) Changes. In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph shall be subject to the provisions of the Changes clause of this contract.

(q) Subcontracts. The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to perform outside the United States-

(1) In a designated operational area during-

- (i) Contingency operations;
- (ii) Humanitarian or peacekeeping operations; or
- (iii) Other military operations; or military exercises, when designated by the Combatant Commander; or

(2) When supporting a diplomatic or consular mission-

(i) That has been designated by the Department of State as a danger pay post (see <https://aoprals.state.gov/>); or

(ii) That the Contracting Officer has indicated is subject to this clause.

(End of clause)



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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:

- (i) A description of the supplies or services to be subcontracted.
- (ii) Identification of the type of subcontract to be used.

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- (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:

(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.

(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:

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

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

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

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

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

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

(vii) A negotiation memorandum reflecting-

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

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

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

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

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

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

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

(2) 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



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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:

(End of clause)