

## **Flow Down Attachment**

### **T- N00019-22-F-2533**

**Business Unit: RMD**

**Prime Contract Number: N00019-20-G-0007**

**Delivery Order Number: N00019-22-F-2533**

**DPAS: DO-A2**

If the Purchase Order is valued at or above **\$750,000**, and is not for commercial items, the following applies:

In order to meet the requirements of FAR 52.219-9, 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.

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 15 days after the close of each reporting period.

Email for Seller's official acknowledging or rejecting the ISR: **<insert email address>**

(Seller must include contractor official on the ISR report email notification)

***The following customer contract requirements apply to this Purchase Order to the extent indicated below and are hereby incorporated into the Purchase Order by full text or by reference with the same force and effect as if they were given in full text. Upon 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: <http://farsite.hill.af.mil/> or <https://www.acquisition.gov/far/>:***

In all provisions and clauses listed herein, terms shall be revised to suitably identify the party to establish Seller's obligations to Buyer and to the Government, and to enable Buyer to meet its obligations under the prime contract. Without limiting the generality of the foregoing, and except where further clarified or modified below, the term "Government" and equivalent phrases shall mean "Buyer", the term "Contracting Officer" shall mean "Buyer's Purchasing Representative", the term "Contractor" or "Offeror" shall mean "Seller", "Subcontractor" shall mean "Seller's Subcontractor" under this Purchase Order, and the term "Contract" shall mean this "Purchase Order". For the avoidance of doubt, the words "Government" and "Contracting Officer" do not change: (1) when a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or duly authorized representative, such as in FAR 52.227-1 and FAR 52.227-2 or (2) when title to property is to be transferred directly to the Government. Seller shall incorporate into each lower tier contract issued in support of this Purchase Order all applicable FAR and DFARS provisions and clauses in accordance with the flow down requirements specified in such clauses. Nothing in this Purchase Order grants Seller a direct right of action against the Government. If any of the following FAR or DFARS clauses do not apply to this Purchase Order, such clauses are considered to be self-deleting.

**CLAUSES INCORPORATED BY REFERENCE:**

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.203-5*	Covenant Against Contingent Fees (MAY 2014)	Applicable to Orders over the Simplified Acquisition Threshold.
FAR 52.203-6*	Restrictions on Subcontractor Sales to the Government (JUN 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.
FAR 52.203-6 ALT I	Restrictions on Subcontractor Sales to the Government (JUN 2020) - Alternate I (OCT 1995)	Applicable to all Orders over the Simplified Acquisition Threshold, for the acquisition of commercial items.
FAR 52.203-7*	Anti-Kickback Procedures (JUN 2020)	Applicable to all Orders that exceed \$150,000, excepting paragraph (c)(1).
FAR 52.203-12*	Limitation on Payments to Influence Certain Federal Transactions (JUN 2020)	Applicable to all Orders exceeding \$150,000.
FAR 52.203-13*	Contractor Code of Business Ethics and Conduct (NOV 2021)	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.
FAR 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.
FAR 52.203-15*	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, when the Prime Contract is funded in whole or in part with Recovery Act funds.
FAR 52.203-17*	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (JUN 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.
FAR 52.203-19*	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.204-2*	Security Requirements (AUG 1996)	Applicable to all Orders that involve access to classified information. Any reference to the Changes clause is excluded.
FAR 52.204-9*	Personal Identity Verification of Contractor Personnel (JAN 2011)	Applicable to all Orders when Seller's employees are required to have routine physical access to a Federally-controlled facility and / or routine access to a Federally-controlled information system.
FAR 52.204-10*	Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020)	Applicable to all Orders when the Buyer is the Prime Contractor and the Order exceeds \$30,000. Substitution of the parties is not applicable to this clause. Seller shall report to Buyer the information required under the clause.
FAR 52.204-21*	Basic Safeguarding of Covered Contractor Information Systems (NOV 2021)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, except commercially available off-the-shelf items, in which the Seller may have Federal contract information residing in or transiting through its information system.
FAR 52.204-23*	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6.
FAR 52.204-24	Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (AUG 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.
FAR 52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (NOV 2021)	Applicable to all Orders, including subcontracts for the acquisition of commercial products or commercial services.
FAR 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.
FAR 52.211-5*	Material Requirements (AUG 2000)	Applicable to Orders for supplies that are not Commercial Items.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.215-2*	Audit and Records - Negotiation (JUN 2020)	Applicable to the following Orders that exceed the Simplified Acquisition Threshold: (i) that are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these, (ii) for which certified cost or pricing data are required; or (iii) that require Seller to furnish reports as discussed in paragraph (e) of the clause.
FAR 52.215-10*	Price Reduction for Defective Certified Cost or Pricing Data (AUG 2011)	Applicable to all Orders that require the Seller to provide certified cost or pricing 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.
FAR 52.215-12 (DEV)	Subcontractor Certified Cost or Pricing Data (Deviation 2018-00015) (MAY 2018)	Applicable if the Orders is 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.
FAR 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.
FAR 52.215-14 ALT I	Integrity of Unit Prices (JUN 2020) - Alternate I (OCT 1997)	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.
FAR 52.215-15*	Pension Adjustments and Asset Reversions (OCT 2010)	Applicable to Orders for which it is anticipated that certified cost or pricing data will be required or for which any preaward or postaward cost determinations will be subject to Part 31.
FAR 52.215-16*	Facilities Capital Cost of Money (JUN 2003)	Flows on a Cost Reimbursement, Time & Material or Labor Hour Orders. Applies if Seller proposed FCCM and if the Order is subject to FAR 31.2 cost principles.
FAR 52.215-18*	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (JUL 2005)	Applicable to Orders that require certified cost or pricing 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.
FAR 52.215-19*	Notification of Ownership Changes (OCT 1997)	Applicable to Orders that require certified cost or pricing 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.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.215-21*	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data -- Modifications (JUN 2020)	Applicable to all Orders when certified cost or pricing data, or data other than certified cost or pricing data, will be required for modifications.
FAR 52.215-21 ALT II	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data -- Modifications (JUN 2020) - Alternate II (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.
FAR 52.215-23*	Limitations on Pass-Through Charges (JUN 2020)	Applicable to all cost-reimbursement Orders that exceed the Simplified Acquisition Threshold; except if the Buyers' prime contract is with the DoD, then applicable to all cost-reimbursement Orders and all fixed-price Orders, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.
FAR 52.215-23 ALT I	Limitations on Pass-Through Charges (JUN 2020) Alternate I (OCT 2009)	Applicable to all cost-reimbursement Orders that exceed the Simplified Acquisition Threshold; except if the Buyers' prime contract is with the DoD, then applicable to all cost-reimbursement Orders and all fixed-price Orders, except those identified in 15.408(n)(2)(i)(B)(2), that exceed the threshold for obtaining cost or pricing data in accordance with FAR 15.403-4.
FAR 52.216-8*	Fixed Fee (JUN 2011)	Applicable to cost plus fixed fee Orders.
FAR 52.216-11*	Incentive Fee (JUN 2011)	Applicable to cost plus incentive fee Orders.
FAR 52.219-8	Utilization of Small Business Concerns (OCT 2018)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, that offer further subcontracting opportunities. (see FAR 52.219-9)
FAR 52.219-9 (DEV)	Small Business Subcontracting Plan (Deviation 2018-00018)	Applicable to Orders that are expected to exceed the threshold identified in FAR 19.702(a) on the date of subcontract/Order award, and to Orders to the extent that the work under the Order will be performed in the United States or its outlying areas or Seller is recruiting employees in the United States or its outlying areas to work on the Order. Not applicable to Orders for commercial items.
FAR 52.222-4	Contract Work Hours and Safety Standards - Overtime Compensation (MAY 2018)	Applicable to Orders that may require or involve the employment of laborers and mechanics. Applicable to foreign Sellers when any work under the Order will be performed in the United States, Puerto Rico, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C.1331) (29 CFR 5.15).

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.222-19	Child Labor—Cooperation With Authorities and Remedies (JAN 2020)	Applicable to Orders for the acquisition of supplies that are expected to exceed the micro-purchase thresholds.
FAR 52.222-20	Contracts for Materials, Supplies, Articles, and Equipment (Jun 2020)	Applicable to Orders over \$15,000 for the manufacture or furnishing of materials, supplies, articles or equipment.
FAR 52.222-21*	Prohibition of Segregated Facilities (Apr 2015)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6. Foreign Sellers: Applicable to Orders except to the extent that work under the Order will be performed outside the United States or by employees that are not recruited within the United States to work on the Order. "United States", as used in this parenthetical, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
FAR.52.222-26*	Equal Opportunity (Sep 2016)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, that are not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended. Foreign Sellers: Applicable to Orders except to the extent that work under the Order will be performed outside the United States or by employees that are not recruited within the United States to work on the Order. "United States", as used in this parenthetical, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
FAR 52.222-35*	Equal Opportunity for Veterans (Jun 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, of \$150,000 or more. Foreign Sellers: Applicable to Orders except when work is performed outside the United States by employees recruited outside the United States.
FAR 52.222-36*	Equal Opportunity for Workers with Disabilities (Jun 2020)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, exceeding \$15,000. Foreign Sellers: Applicable to Orders to the extent that (i) work under the Order will be performed in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island or (ii) Seller is recruiting employees in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island to work on the Order.
FAR 52.222-37*	Employment Reports on Veterans (Jun 2020)	Applicable to all Orders over \$150,000 or more unless exempted by rules, regulations, or orders of the Secretary.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.222-40*	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, that exceed \$10,000 will be performed wholly or partially in the United States.
FAR 52.222-41*	Service Contract Labor Standards (Aug 2018)	Applicable to all Orders that are subject to the Service Contract Labor Standards statute.
FAR 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 / or is subject to collective bargaining agreements.
FAR 52.222-44	Fair Labor Standards Act and Service Contract Act - Price Adjustment (May 2014)	Applicable to all Orders when Seller's performance includes performance in area subject to prevailing wage determinations and / or is subject to collective bargaining agreements.
FAR 52.222-50*	Combating Trafficking in Persons (NOV 2021)	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 \$500,000 in value.
FAR 52.222-50 ALT I	Combating Trafficking in Persons (NOV 2021) ALT I (MAR 2015)	Applicable to all Orders, 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 \$500,000 in value.
FAR 52.222-54*	Employment Eligibility Verification (Oct 2015)	Applicable to all Orders (i) for construction or commercial or noncommercial services (except commercial services that are part of a purchase of a COTS item, or an item that would be a COTS item, but for minor modifications, performed by the COTS provider, and that are normally provided for that COTS item); (ii) has a value more than \$3,500; and (iii) includes work performed in the United States. Foreign Sellers: "United States" means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.
FAR 52.222-55*	Minimum Wages Under Executive Order 13658 (JAN 2022)	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.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.222-62*	Paid Sick Leave Under Executive Order 13706 (Jan 2022)	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.
FAR 52.223-2	Affirmative Procurement of Biobased Products Under Service And Construction Contracts (Sep 2013)	Applicable to all service or construction Orders.
FAR 52.223-3*	Hazardous Material Identification and Material Safety Data (Jan 1997)	Applicable to all Orders that require the delivery of hazardous materials as defined in FAR 23.301. "Government" means "Government and Buyer" in this clause.
FAR 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.
FAR 52.223-11*	Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016)	Applicable to all Orders except 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. Seller shall label products which contain or are manufactured with ozone-depleting substances as described in the clause.
FAR 52.223-17	Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts (AUG 2018)	Applicable to EPA designated items in Service and Construction contracts.
FAR 52.223-18*	Encouraging Contractor Policies To Ban Text Messaging While Driving (Jun 2020)	Applicable to all Orders over the Micro-Purchase Threshold.
FAR 52.223-20	Aerosols (Jun 2016)	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.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.224-3*	Privacy Training (Jan 2017)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, when Seller's employees will (i) have access to a system of records; (ii) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (iii) Design, develop, maintain, or operate a system of records.)
FAR 52.224-3 ALT I	Privacy Training (Jan 2017)ALT I (JAN 2017)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, when Seller's employees will (i) have access to a system of records; (ii) create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (iii) Design, develop, maintain, or operate a system of records; and the agency specifies that only its agency-provided training is acceptable.
FAR 52.225-13*	Restrictions on Certain Foreign Purchases (Jun 2008)	Applicable to all Orders.
FAR 52.225-25	Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran - Representation and Certification (Jun 2020)	Applicable to all Orders.
FAR 52.225-26*	Contractors Performing Private Security Functions Outside the United States (Oct 2016)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, that will be performed outside the United States in areas of (1) Combat operations, as designated by the Secretary of Defense; or (2) Other significant military operations, upon agreement Secretaries of Defense and State that the clause applies in that area.
FAR 52.227-1*	Authorization and Consent (Jun 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.
FAR 52.227-1 ALT I	Authorization and Consent (Jun 2020) - Alternate I (Apr 1984)	Applicable to all Orders over the Simplified Acquisition Threshold when the primary purpose of Seller's work is research and development, excluding construction or a architect-engineer work.
FAR 52.227-2*	Notice and Assistance Regarding Patent and Copyright Infringement (Jun 2020)	Applicable to all Orders over the Simplified Acquisition Threshold.
FAR 52.227-10*	Filing of Patent Applications -- Classified Subject Matter (Dec 2007)	Applicable to all Orders that cover or likely to cover classified subject matter.
FAR 52.228-5*	Insurance-Work on a Government Installation (Jan 1997)	Applicable to all Orders that require work on a Government installation.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.230-6*	Administration of Cost Accounting Standards (Jun 2010)	Applicable when stated in the Order.
FAR 52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	Applicable to all Orders involving EULA, TOS, or similar software agreement.
FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors (NOV 2021)	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.
FAR 52.234-1	Industrial Resources Developed Under Title III, Defense Production Act (Sep 2016)	Applicable to all Orders.
FAR 52.237-2*	Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)	Applicable to all Orders for services to be performed on Government installations.
FAR 52.243-2*	Changes-Cost-Reimbursement (Aug 1987)	Applicable to cost-reimbursement Orders.
FAR 52.243-2 ALT I	Changes-Cost-Reimbursement (Aug 1987) - Alternate I (Apr 1984)	Applicable to cost-reimbursement Orders.
FAR 52.243-2 ALT II	Changes-Cost-Reimbursement (Aug 1987) - Alternate II (Apr 1984)	Applicable to cost-reimbursement Orders.
FAR 52.243-2 ALT V	Changes-Cost-Reimbursement (Aug 1987) - Alternate V (Apr 1984)	Applicable to cost-reimbursement Orders.
FAR 52.243-6*	Change Order Accounting (Apr 1984)	Applicable to Orders for supply and research and development contracts of significant technical complexity.
FAR 52.244-5	Competition in Subcontracting (Dec 1996)	Applicable to all Orders.
FAR 52.244-6*	Subcontracts for Commercial Products and Commercial Services (Jan 2022)	Applicable to all Orders.
FAR 52.245-1	Government Property (Jan 2017)	Applicable to all Orders when Government property is acquired or furnished (see PT-001).
FAR 52.245-9	Use and Charges (Apr 2012)	Applicable to all Orders when Government property is acquired or furnished (see PT-001).
FAR 52.246-2*	Inspection Of Supplies-- Fixed Price (AUG 1996)	Applicable to all fixed-price Orders for supplies, or services that involve the furnishing of supplies.
FAR 52.246-2 ALT I	Inspection Of Supplies-- Fixed Price (AUG 1996) ALT I (JUL 1985)	Applicable to all fixed-price Orders for supplies, or services that involve the furnishing of supplies.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.247-63*	Preference for U.S.-Flag Air Carriers (Jun 2003)	Applicable to all Orders that involve international air transportation.
FAR 52.247-64*	Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021)	Applicable to all Orders, including for Commercial Items pursuant to 52.244-6, except those exempted in paragraph (e) (4) of the clause.
FAR 52.249-2*	Termination for Convenience of the Government (Fixed-Price) (Apr 2012)	Applicable to all Orders. The usual substitution of the parties in which "Government" means "Buyer", "Contracting Officer" means "Buyer's Purchasing Representative", and "Contractor" means "Seller" is applicable to this clause except that any express obligation to transfer or assign title to property shall be modified such that "Government" means "Government or Buyer".) (In paragraph (d) the term "45 days" is changed to "90 days." The term "one-year" in paragraph (e) is changed to "six months." The term "90 days" in paragraph (l) is changed to "forty-five days."
FAR 52.251-1	Government Supply Sources (Apr 2012)	Applicable to Orders when Buyer flows express authorization for Seller to use Government Supply Sources.
DFARS 252.203-7000*	Requirements Relating to Compensation of Former DoD Officials (Sep 2011)	Applicable to all Orders.
DFARS 252.203-7001*	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (Dec 2008)	Applicable to all Orders exceeding the simplified acquisition threshold.
DFARS 252.203-7002*	Requirement to Inform Employees of Whistleblower Rights (Sep 2013)	Applicable to all Orders.
DFARS 252.203-7004*	Display of Hotline Posters (Aug 2019)	Applicable to Orders that exceed \$6 million, except those that are commercial items.
DFARS 252.204-7000*	Disclosure of Information (Oct 2016)	Applicable to all Orders when Seller will have access to or generate unclassified information that may be sensitive and inappropriate for release to the public.
DFARS 252.204-7004	Antiterrorism Awareness Training for Contractors (Feb 2019)	Applicable to all Orders, including Orders for commercial items, when Seller performance requires routine physical access to a Federally-controlled facility or military installation.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
DFARS 252.204-7009*	Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information (Oct 2016)	Applicable to all Orders for services that include support for the Government's activities related to safeguarding covered defense information and cyber incident reporting.
DFARS 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.
DFARS 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.
DFARS 252.204-7020*	NIST SP 800-171 DoD Assessment Requirements (Mar 2022)	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.
DFARS 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.
DFARS 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.
DFARS 252.219-7003 ALT I	Small Business Subcontracting Plan (DoD Contracts) (DEC 2019)	Applicable to all Orders to Sellers that participate in the Test Program described in DFARS 219.702-70, if the subcontract offers further subcontracting opportunities and is expected to exceed the applicable threshold specified in FAR 19.702(a) on the date of subcontract/Order award.
DFARS 252.222-7006*	Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010)	Applicable to Orders over \$1 million except Orders for the acquisition of commercial items, including commercially available off-the-shelf items.
DFARS 252.223-7001*	HARZARD WARNING LABELS (DEC 1991)	Applicable to all Orders for goods that require submission of hazardous material data sheets. (See FAR 23.302(c))
DFARS 252.223-7002*	Safety Precautions For Ammunition And Explosives (MAY 1994)	Applicable to all Orders that involve ammunition or explosives.
DFARS 252.223-7003*	Changes In Place Of Performance--Ammunition And Explosives (DEC 1991)	Applicable to all Orders that involve ammunition or explosives.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
DFARS 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.
DFARS 252.223-7006*	Prohibition on Storage and Disposal of Toxic and Hazardous Materials (Sep 2014)	Applicable to all Orders that require, may require, or permit a Seller or its lower tier subcontractors access to a DoD installation.
DFARS 252.223-7008*	Prohibition of Hexavalent Chromium (Jun 2013)	Applicable to all Orders, including subcontracts for commercial items, for supplies, maintenance and repair services, or construction materials.
DFARS 252.225-7001*	Buy American Act and Balance of Payments Program (Dec 2017)	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.
DFARS 252.225-7004*	Report of Intended Performance Outside the United States and Canada-- Submission after Award (May 2019)	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 there are any changes to the information submitted with its offer.
DFARS 252.225-7007*	Prohibition on Acquisition of Certain Items from Communist Chinese Military Companies (Dec 2018)	Applicable to all Orders for the acquisition of items covered by the United States Munitions List of the International Traffic in Arms Regulation or the 600 series of the Commerce Control List.
DFARS 252.225-7008*	Restriction on Acquisition of Specialty Metals (Mar 2013)	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.
DFARS 252.225-7009*	Restriction on Acquisition of Certain Articles Containing Specialty Metals (Dec 2019)	Applicable to all Orders, excluding paragraph (d) and (e)(1) which are deleted from this clause, for items containing specialty metals to ensure compliance of the end products that Buyer will deliver to the Government.
DFARS 252.225-7012*	Preference for Certain Domestic Commodities (Dec 2017)	Applicable to all Orders.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
DFARS 252.225-7013*	Duty-Free Entry (Apr 2020)	Applicable to Orders for the acquisition of (i) Qualifying Country Components (as defined in paragraph (a) of this clause) or (ii) Nonqualifying Country Components (defined in paragraph (a)) for which the Seller estimates that duty will exceed \$200 per unit to be delivered from foreign locations that will be entering into the customs territory of the United States. Information required by paragraphs (j) (2) and (j) (3) of this clause will be made available upon request.
DFARS 252.225-7015*	Restriction on Acquisition of Hand or Measuring Tools (Jun 2005)	Applicable to all Orders for Hand or measuring tools.
DFARS 252.225-7016*	Restriction on Acquisition of Ball and Roller Bearings (Jun 2011)	Applicable to all Orders for Goods that contain ball or roller bearings, except those that are for commercial items.
DFARS 252.225-7025*	Restriction on Acquisition of Forgings (Dec 2009)	Applicable to all Orders for forging items or for other items that contain forging items.
DFARS 252.225-7028	Exclusionary Policies and Practices of Foreign Governments (Apr 2003)	Applicable to all Orders for supplies and services.
DFARS 252.225-7030*	Restriction on Acquisition of Carbon, Alloy, and Armor Steel Plate (Dec 2006)	Applicable to all Orders for Carbon, Alloy, and Armor Steel Plate.
DFARS 252.225-7036 ALT I	Buy American--Free Trade Agreements--Balance of Payments Program--Basic (DEC 2017) ALT I (DEC 2017)	Applicable if the estimated contract value is within the minimum and maximum dollar thresholds in effect at the time of prime contract issuance, unless an exception at FAR 25.401 or DFARS 225.401 applies and the acquisition is of end products in support of operations in Afghanistan.
DFARS 252.225-7036 ALT IV	Buy American--Free Trade Agreements--Balance of Payments Program--Basic (DEC 2017) ALT IV (DEC 2017)	Applicable if DFARS 252.225-7035, Buy American -- Free Trade Agreements - Balance of Payments Program - Certificate, is included in, and applicable to, this solicitation or through the required disclosures in CR-003; and, if the estimated contract value is within the minimum and maximum dollar thresholds in effect at the time of prime contract issuance, except if the acquisition is of end products in support of operations in Afghanistan.
DFARS 252.225-7043*	Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States (Jun 2015)	Applicable to all Orders that require performance or travel outside the U.S., except subcontractors who are a foreign government, a representative of a foreign government, or a foreign corporation wholly owned by a foreign government.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
DFARS 252.225-7048*	Export-Controlled Items (Jun 2013)	Applicable to all Orders.
DFARS 252.225-7052	Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten (DEC 2019)	Applicable to all Orders for the delivery of goods that exceed the Simplified Acquisition Threshold, unless an exception at paragraph (c) of the clause applies.
DFARS 252.226-7001*	Utilization of Indian Organizations and Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Apr 2019)	Applicable to all Orders exceeding \$500,000.
DFARS 252.227-7013*	Rights in Technical Data-Noncommercial Items (Feb 2014)	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.
DFARS 252.227-7014*	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (Feb 2014)	Applicable to Orders when Seller's performance will require delivery of non-commercial computer software or computer software documentation.
DFARS 252.227-7015*	Technical Data-Commercial Items (Feb 2014)	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.
DFARS 252.227-7016*	Rights in Bid or Proposal Information (Jan 2011)	Applicable to all Orders.
DFARS 252.227-7017*	Identification and Assertion of Use, Release, or Disclosure Restrictions (Jan 2011)	Applicable to all Orders.
DFARS 252.227-7019*	Validation of Asserted Restrictions--Computer Software (Sep 2016)	Applicable to all Orders when Seller's performance includes the furnishing of computer software that Buyer will furnish to the Government.
DFARS 252.227-7025*	Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (May 2013)	Applicable to all Orders.
DFARS 252.227-7026*	Deferred Delivery of Technical Data or Computer Software (Apr 1988)	Applicable to all Orders.
DFARS 252.227-7027*	Deferred Ordering of Technical Data or Computer Software (Apr 1988)	Applicable to all Orders.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
DFARS 252.227-7038*	Patent Rights—Ownership by the Contractor (Large Business) (Jun 2012)	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.
DFARS 252.228-7001*	Ground and Flight Risk (Jun 2010)	Applicable to all Orders for the acquisition, development, production, modification, maintenance, repair, flight, or overhaul of aircraft unless an exception listed at DFARS 228.370(b)(1) applies.
DFARS 252.228-7005*	Accident Reporting and Investigation Involving Aircraft, Missiles, and Space Launch Vehicles (Dec 1991)	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.
DFARS 252.231-7000*	Supplemental Cost Principles (Dec 1991)	Applicable to Orders that are subject to the principles and procedures described in FAR subparts 31.1, 31.2, 31.6, or 31.7.
DFARS 252.234-7004	Cost and Software Data Reporting System (Nov 2014)	Applicable to Orders that exceed \$50 million.
DFARS 252.235-7003*	Frequency Authorization (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.
DFARS 252.235-7010	Acknowledgment of Support and Disclaimer (May 1995)	Applicable to all Orders for research and development.
DFARS 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.
DFARS 252.239-7018*	Supply Chain Risk (Feb 2019)	Applicable to all Orders involving the development or delivery of any information technology as defined in the clause, as a service or a supply.
DFARS 252.244-7000*	Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Jun 2013)	Applicable to all Orders.
DFARS 252.246-7001*	Warranty of Data (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.
DFARS 252.246-7001 ALT I	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.

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
DFARS 252.246-7001 ALT II	Warranty of Data - (MAR 2014) Alternate II (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.
DFARS 252.246-7003*	Notification of Potential Safety Issues (Jun 2013)	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.
DFARS 252.246-7007*	Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016)	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.
DFARS 252.246-7008*	Sources of Electronic Parts (May 2018)	Applicable to all Orders for electronic parts or assemblies containing electronic parts, unless Seller is the original manufacturer.
DFARS 252.247-7023*	Transportation of Supplies by Sea (Feb 2019)	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 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.
DFARS 252.249-7002*	Notification of Anticipated Contract Termination or Reduction (Jun 2020)	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.
DFARS 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.

\* Denotes a FAR/DFARS clause that is included in Standard Terms and Conditions.

## CLAUSES INCORPORATED IN FULL TEXT:

### FAR 52.216-7\* ALLOWABLE COST AND PAYMENT (AUG 2018)

#### (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 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 subparagraph (b) (2) of the 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--

(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.

(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/wpcontent/uploads/2017/11/ContractorCompensationCapContractsAwardedBeforeJune24.pdf> and

<https://www.whitehouse.gov/wpcontent/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.

(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.

(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--

(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)

## **FAR 52.216-16 INCENTIVE PRICE REVISION-FIRM TARGET (OCT 1997)**

(a) General. The supplies or services identified in the Schedule as Items [Contracting Officer insert Schedule

line item numbers] 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 (\$ ). 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 the terms of 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) Data submission .

(1) Within [Contracting Officer insert number of days] 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 clause, the Contractor shall submit in the format of Table 15-2, FAR 15.408, or in any other form on which the parties agree --

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

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

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

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

(2) If the Contractor fails to submit the data required by subparagraph (c)(1) of this clause 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) Price revision. Upon the Contracting Officer's receipt of the data required by paragraph (c) of this clause, the Contracting Officer and the Contractor shall promptly establish the total final price of the items specified in (a) of this clause by applying to final negotiated cost an adjustment for profit or loss, as follows:

(1) On the basis of the information required by paragraph (c) of this clause, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for 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 profit or loss, as follows:

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

(ii) If the total final negotiated cost is greater than the total target cost, the adjustment is the total target profit, less [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost exceeds the total target cost.

(iii) If the final negotiated cost is less than the total target cost, the adjustment is the total target profit plus [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost is less than the total target cost.

(e) Contract modification . The total final price of the items specified in paragraph (a) of this clause 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 those elements; and

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

(f) Adjusting billing prices .

(1) Pending execution of the contract modification (see paragraph (e) of this clause), the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices shown in this contract.

(2) If at any time it appears from information provided by the contractor under subparagraph

(g)(2) of this clause 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 final cost under this contract will be substantially greater than the target cost.

(3) Any billing price adjustment shall be reflected in a contract modification and shall not affect the determination of the total final price under paragraph (d) of this clause. 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.

(g) Quarterly limitation on payments statement . This paragraph (g) shall apply until final price revision under this contract has been completed.



(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 costs (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 target profit (used in establishing the initial contract price or agreed to for the purpose of this paragraph (g)) 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 subparagraph (d) (2) of this clause, when the amount stated under subdivision (g) (1) (ii) of this clause differs from the aggregate 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 (g) (1) (iv) of this clause exceeds the sum due the Contractor, as computed in accordance with subdivisions (g) (1) (i), (ii), and (iii) of this clause, 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 any applicable tax credits due the Contractor under 26 U.S.C. 1481 and 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.

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

(i) Disagreements . If the Contractor and the Contracting Officer fail to agree upon the 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 by paragraph (c) of this clause are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(j) 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 and services not terminated under a partial termination.

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

(k) Equitable adjustment 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.

(l) 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.

(m) 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.

(n) 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.

(a) General. The supplies or services identified in the Schedule as Items [Contracting Officer insert Schedule line item numbers] 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 (\$ \_\_\_\_). 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 the terms of 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) Data submission .

- (1) Within [Contracting Officer insert number of days] 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 clause, the Contractor shall submit in the format of Table 15-2, FAR 15.408, or in any other form on which the parties agree --
- (i) A detailed statement of all costs incurred up to the end of that month in performing all work under the items;
- (ii) An estimate of costs of further performance, if any, that may be necessary to complete performance of all work under the items;
- (iii) A list of all residual inventory and an estimate of its value; and
- (iv) Any other relevant data that the Contracting Officer may reasonably require.

(2) If the Contractor fails to submit the data required by subparagraph (c) (1) of this clause 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) Price revision. Upon the Contracting Officer's receipt of the data required by paragraph (c) of this clause, the Contracting Officer and the Contractor shall promptly establish the total final price of the items specified in (a) of this clause by applying to final negotiated cost an adjustment for profit or loss, as follows:

- (1) On the basis of the information required by paragraph (c) of this clause, together with any other pertinent information, the parties shall negotiate the total final cost incurred or to be incurred for 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 profit or loss, as follows:
  - (i) If the total final negotiated cost is equal to the total target cost, the adjustment is the total target profit.
  - (ii) If the total final negotiated cost is greater than the total target cost, the adjustment is the total target profit, less [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost exceeds the total target cost.
  - (iii) If the final negotiated cost is less than the total target cost, the adjustment is the total target profit plus [Contracting Officer insert percent] percent of the amount by which the total final negotiated cost is less than the total target cost.

(e) Contract modification . The total final price of the items specified in paragraph (a) of this clause 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 those elements; and
- (2) Adjustments or credits are explicitly permitted or required by this or any other clause in this contract.

(f) Adjusting billing prices .

- (1) Pending execution of the contract modification (see paragraph (e) of this clause), the Contractor shall submit invoices or vouchers in accordance with billing prices as provided in this paragraph. The billing prices shall be the target prices shown in this contract.
- (2) If at any time it appears from information provided by the contractor under subparagraph (g) (2) of this clause 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 final cost under this contract will be substantially greater than the target cost.
- (3) Any billing price adjustment shall be reflected in a contract modification and shall not affect the determination of the total final price under paragraph (d) of this clause. 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.



(g) Quarterly limitation on payments statement . This paragraph (g) shall apply until final price revision under this contract has been completed.

(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 costs (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 target profit (used in establishing the initial contract price or agreed to for the

purpose of this paragraph (g)) 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 subparagraph (d) (2) of this clause, when the amount stated under subdivision (g) (1) (ii) of this clause differs from the aggregate 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 (g) (1) (iv) of this clause exceeds the sum due the Contractor, as computed in accordance with subdivisions (g) (1) (i), (ii), and (iii) of this clause, 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 any applicable tax credits due the Contractor under 26 U.S.C. 1481 and 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.

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

(i) Disagreements . If the Contractor and the Contracting Officer fail to agree upon the 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 by paragraph (c) of this clause are to be submitted, the Contracting Officer shall promptly issue a decision in accordance with the Disputes clause.

(j) 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 and services not terminated under a partial termination.

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

(k) Equitable adjustment 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.

(l) 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.

(m) 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.

(n) 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.

(o) *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 target prices. Target cost and profit covering these parts, other supplies, or services may be established separately, in the aggregate, or in any combination, as the parties may agree.*

## **FAR 52.216-17 INCENTIVE PRICE REVISION--SUCCESSIVE TARGETS (OCT 1997)**

(a) General. The supplies or services identified in the Schedule as Items [Contracting Officer insert line item numbers] 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 (\$ ). The prices of these items shown in the Schedule are

the initial target prices, which include an initial target profit of [Contracting Officer insert percentage] 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 [Contracting Officer insert number of days] days after the end of the month in which the Contractor has completed [ ] (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 --

(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 subparagraph (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 subparagraphs (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 [\_\_\_\_\_] 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 [Contracting Officer insert percentage] percent or more than [Contracting Officer insert percentage] 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 [\_\_\_\_\_] 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 [\_\_\_\_\_] 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 [Contracting Officer insert number of days] 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; and

(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:

(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 subparagraph (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 subparagraph

(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 subparagraph (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 subparagraph (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 any applicable tax credits due the Contractor under 26 U.S.C. 1481 and 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 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.

**FAR 52.216-17 INCENTIVE PRICE REVISION--SUCCESSIVE TARGETS (OCT 1997) ALT I (APR 1984)**

(a) General. The supplies or services identified in the Schedule as Items [Contracting Officer insert line item numbers] 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 (\$ ). The prices of these

items shown in the Schedule are the initial target prices, which include an initial target profit of [Contracting Officer

insert percent of] 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 [Contracting Officer insert number of days] days after the end of the month in which the Contractor has completed [ ] (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 --

(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 subparagraph (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 subparagraphs (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: (2) If at any time it appears from information provided by the contractor under subparagraph (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 subparagraph (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 subparagraph (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 any applicable tax credits due the Contractor under 26 U.S.C. 1481 and 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 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 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.

(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 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.

#### **FAR 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014)**

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332. THIS STATEMENT IS FOR INFORMATION ONLY: IT IS NOT A WAGE DETERMINATION Employee Class Monetary Wage-Fringe Benefits

#### **FAR 52.223-7 NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)**

(a) The Contractor shall notify the Contracting Officer or designee, in writing, 60 [unless otherwise specified in individual orders] 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 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 item on notice as to the hazards involved (OMB No. 9000-0107).

(b) If there has been no change affecting the quantity of the 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 such 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 or exceeds 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 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.

#### **FAR 52.244-2 SUBCONTRACTS (OCT 2010)**

(a) Definitions. As used in this clause--

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract. "Subcontract" means any contract, as defined in FAR Subpart

2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

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

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

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

(2) Is fixed-price and exceeds--

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

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

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting

Officer's written consent before placing the following subcontracts: [Enter subcontractor's names, if applicable]

(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 Certified Cost or Pricing Data, if required by other contract provisions.

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

(vii) A negotiation memorandum reflecting--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_ \*

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

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



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

Title Number Date Tailoring

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

(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.

#### **FAR 52.248-1 VALUE ENGINEERING (JUN 2020)**

(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) below.

(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.

"Collateral costs," as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property. "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. 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 subparagraphs (1) through (8) below. 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, below.
  - (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.
  - (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 shall 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) above (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 (Figures in percent)

Contract Type	Incentive (Voluntary)		Program Requirement (Mandatory)	
	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)	(1) 50	(1) 50	(1) 25	25
Incentive (fixed-price or cost) (other than award fee)	(2)	(1) 50	(2)	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive contracts)	(3) 25	(3) 25	15	15

\* The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECF.

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

\* The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECF.

### (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 subparagraph (i) (4) below). 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) above). 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.

(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 VECF (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 subparagraph (h) (5) above. 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 (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 subparagraph (h) (3) above) 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:

"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)

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

(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 is one hundred troy ounces or more. The precious metal(s) will be furnished pursuant to the Government Furnished Property clause of this 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.



Deliverable Item Precious Metal\* Quantity (NSN and Nomenclature)

\* 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)

**DFARS 252.209-7010 CRITICAL SAFETY ITEMS (AUG 2011)**

(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 -

(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.

**DFARS 252.223-7007 SAFEGUARDING SENSITIVE CONVENTIONAL ARMS, AMMUNITION, AND EXPLOSIVES (SEP 1999)**

(a) Definition.

Arms, ammunition, and explosives (AA&E)," as used in this clause, means those items within the scope (chapter 1. paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

(b) The requirements of DoD 5100.76-M apply to the following items of AA&E being developed, produced, manufactured, or purchased for the Government, or provided to the Contractor as Government-furnished property under this contract:

NATIONAL SENSITIVITY/ NOMENCLATURE STOCK NUMBER CATEGORY

(c) The Contractor shall comply with the requirements of DoD 5100.76-M, as specified in the statement of work. The edition of DoD 5100.76-M in effect on the date of issuance of the solicitation for this contract shall apply.

(d) The contractor shall allow representatives of the Defense Security Service (DSS), and representatives of other appropriate offices of the Government, access at all reasonable times into its facilities and those of its subcontractors, for the purpose of performing surveys, inspections, and investigations necessary to review compliance with the physical security standards applicable to this contract.



(e) The Contractor shall notify the cognizant DSS field office of any subcontract involving AA&E within 10 days after award of the subcontract.

(f) The Contractor shall ensure that the requirements of this clause are included in all subcontracts, at every tier --

(1) For the development, production, manufacture, or purchase of AA&E; or

(2) When AA&E will be provided to the subcontractor as Government-furnished property.

(g) Nothing in this clause shall relieve the Contractor of its responsibility for complying with applicable Federal, state, and local laws, ordinances, codes, and regulations (including requirements for obtaining licenses and permits) in connection with the performance of this contract.

**DFARS 252.225-7027 RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES (APR 2003)**

(a) Except as provided in paragraph (b) of this clause, contingent fees, as defined in the Covenant Against Contingent Fees clause of this contract, are generally an allowable cost, provided the fees are paid to--

(1) A bona fide employee of the Contractor; or

(2) A bona fide established commercial or selling agency maintained by the Contractor for the purpose of securing business.

(b) For foreign military sales, unless the contingent fees have been identified and payment approved in writing by the foreign customer before contract award, the following contingent fees are unallowable under this contract:

(1) For sales to the Government(s) of [insert countries], contingent fees in any amount.

(2) For sales to Governments not listed in paragraph (b)(1) of this clause, contingent fees exceeding \$50,000 per foreign military sale case.

**DFARS 252.234-7002 EARNED VALUE MANAGEMENT SYSTEM (DEVIATION 2015-O0017) (SEP 2015)**

(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. "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.

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, on 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 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.]

## **5252.209-9510 ORGANIZATIONAL CONFLICTS OF INTEREST (SERVICES) (NAVAIR) (MAR 2007)**

(a) Purpose. This clause seeks to ensure that the contractor (1) does not obtain an unfair competitive advantage over other parties by virtue of its performance of this contract, and (2) is not biased because of its current or planned interests (financial, contractual, organizational or otherwise) that relate to the work under this contract.

(b) Scope. The restrictions described herein shall apply to performance or participation by the contractor (as defined in paragraph (d)(7)) in the activities covered by this clause.

(1) The restrictions set forth in paragraph (e) apply to supplies, services, and other performance rendered with respect to the suppliers and/or equipment listed in Attachment [Insert attachment number]. [Insert either "Task orders issued under the contract" or "The contract"] will specify to which suppliers and/or equipment subparagraph

(f) restrictions apply.

(2) The financial, contractual, organizational and other interests of contractor personnel performing work under this contract shall be deemed to be the interests of the contractor for the purposes of determining the existence of an Organizational Conflict of Interest. Any subcontractor that performs any work relative to this contract shall be subject to this clause. The contractor agrees to place in each subcontract affected by these provisions the necessary language contained in this clause.

(c) Waiver. Any request for waiver of the provisions of this clause shall be submitted in writing to the Procuring Contracting Officer. The request for waiver shall set forth all relevant factors including proposed contractual safeguards or job procedures to mitigate conflicting roles that

might produce an Organizational Conflict of Interest. No waiver shall be granted by the Government with respect to prohibitions pursuant to access to proprietary data.

(d) Definitions. For purposes of application of this clause only, the following definitions are applicable:

- (1) "System" includes system, major component, subassembly or subsystem, project, or item.
- (2) "Nondevelopmental items" as defined in FAR 2.101.
- (3) "Systems Engineering" (SE) includes, but is not limited to, the activities in FAR 9.505-1(b).
- (4) "Technical direction" (TD) includes, but is not limited to, the activities in FAR 9.505-1(b).
- (5) "Advisory and Assistance Services" (AAS) as defined in FAR 2.101.
- (6) "Consultant services" as defined in FAR 31.205-33(a).

(7) "Contractor", for the purposes of this clause, means the firm signing this contract, its subsidiaries and affiliates, joint ventures involving the firm, any entity with which the firm may hereafter merge or affiliate, and any other successor or assignee of the firm.

(8) "Affiliates" means officers or employees of the prime contractor and first tier subcontractors involved in the program and technical decision-making process concerning this contract.

(9) "Interest" means organizational or financial interest.

(10) "Weapons system supplier" means any prime contractor or first tier subcontractor engaged in, or having a known prospective interest in the development, production or analysis of any of the weapon systems, as well as any major component or subassembly of such system.

(e) Contracting restrictions.

[ ] (1) To the extent the contractor provides systems engineering and/or technical direction for a system or commodity but does not have overall contractual responsibility for the development, the integration, assembly and checkout (IAC) or the production of the system, the contractor shall not (i) be awarded a contract to supply the system or any of its major components or (ii) be a subcontractor or consultant to a supplier of the system or of its major components. The contractor agrees that it will not supply to the Department of Defense (either as a prime contractor or as a subcontractor) or act as consultant to a supplier of, any system, subsystem, or major component utilized for or in connection with any item or other matter that is (directly or indirectly) the subject of the systems engineering and/or technical direction or other services performed under this contract for a period of [Insert the period of prohibition] after the date of completion of the contract. (FAR 9.505-1(a))

[ ] (2) To the extent the contractor prepares and furnishes complete specifications covering nondevelopmental items to be used in a competitive acquisition, the contractor shall not be allowed to furnish these items either as a prime contractor or subcontractor. This rule applies to the initial production contract, for such items plus a specified time period or event. The contractor agrees to prepare complete specifications covering non-developmental items to be used in competitive acquisitions, and the contractor agrees not to be a supplier to the Department of Defense, subcontract supplier, or a consultant to a supplier of any system or subsystem for which complete specifications were prepared hereunder. The prohibition relative to being a supplier, a subcontract supplier, or a consultant to a supplier of these systems of their subsystems extends for a period of [Insert the period of prohibition] after the terms of this contract. (FAR 9.505-2(a)(1))

[ ] (3) To the extent the contractor prepares or assists in preparing a statement of work to be used in competitively acquiring a system or services or provides material leading directly, predictably and without delay to such a work statement, the contractor may not supply the system, major components thereof or the services unless the contractor is the sole source, or a participant in the design or development work, or more than one contractor has been involved in preparation of the work statement. The contractor agrees to prepare, support the preparation of or provide material leading directly, predictably and without delay to a work statement to be used in competitive acquisitions, and the contractor agrees not to be a supplier or consultant to a supplier of any services, systems or subsystems for which the contractor participated in preparing the work statement. The prohibition relative to being a supplier, a subcontract supplier, or a consultant to a supplier of any services, systems or subsystems extends for a period of [insert the period of prohibition] after the terms of this contract. (FAR 9.505-2(b)(1))

[ ] (4) To the extent work to be performed under this contract requires evaluation of offers for products or services, a contract will not be awarded to a contractor that will evaluate its own offers for products or services, or those of a competitor, without proper safeguards to ensure objectivity to protect the Government's interests. Contractor agrees to the terms and conditions set forth in the Statement of Work that are established to ensure objectivity to protect the Government's interests. (FAR 9.505-3)

[ ] (5) To the extent work to be performed under this contract requires access to proprietary data of other companies, the contractor must enter into agreements with such other companies which set forth procedures deemed adequate by those companies (i) to protect such data from unauthorized use or disclosure so long as it remains proprietary and (ii) to refrain from using the information for any other purpose other than that for which it was furnished. Evidence of such agreement(s) must be made available to the Procuring Contracting Officer upon request. The contractor shall restrict access to proprietary information to the minimum number of employees necessary for performance of this contract. Further, the contractor agrees that it will not utilize proprietary data obtained from such other companies in preparing proposals (solicited or unsolicited) to perform additional services or studies for the United States Government. The

contractor agrees to execute agreements with companies furnishing proprietary data in connection with work performed under this contract, obligating the contractor to protect such data from unauthorized use or disclosure so long as such data remains proprietary, and to furnish copies of such agreement to the Contracting Officer. Contractor further agrees that such proprietary data shall not be used in performing for the Department of Defense additional work in the same field as work performed under this contract if such additional work is procured competitively. (FAR 9.505-4)

[ ] (6) Preparation of Statements of Work or Specifications. If the contractor under this contract assists substantially in the preparation of a statement of work or specifications, the contractor shall be ineligible to perform or participate in any capacity in any contractual effort (solicited or unsolicited) that is based on such statement of work or specifications. The contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restrictions in this subparagraph shall not apply. Contractor agrees that it will not supply to the Department of Defense (either as a prime contractor or as a subcontractor) or act as consultant to a supplier of, any system, subsystem or major component utilized for or in connection with any item or work statement prepared or other services performed or materials delivered under this contract, and is procured on a competitive basis, by the Department of Defense with [insert the period of prohibition] after completion of work under this contract. The provisions of this clause shall not apply to any system, subsystem, or major component for which the contractor is the sole source of supply or which it participated in designing or developing. (FAR 9.505-4(b)) [ ] (7) Advisory and Assistance Services (AAS). If the contractor provides AAS

services as defined in paragraph (d) of this clause, it shall be ineligible thereafter to participate in any capacity in Government contractual efforts (solicited or unsolicited) which stem directly from such work, and the contractor agrees not to perform similar work for prospective offerors with respect to any such contractual efforts. Furthermore, unless so directed in writing by the Contracting Officer, the contractor shall not perform any such work under this contract on any of its products or services, or the products or services of another firm for which the contractor performs similar work. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for AAS.

(f) Remedies. In the event the contractor fails to comply with the provisions of this clause, such noncompliance shall be deemed a material breach of the provisions of this contract. If such noncompliance is the result of conflicting financial interest involving contractor personnel performing work under this contract, the Government may require the contractor to remove such personnel from performance of work under this contract. Further, the Government may elect to exercise its right to terminate for default in the event of such noncompliance. Nothing herein shall prevent the Government from electing any other appropriate remedies afforded by other provisions of this contract, or statute or regulation.

(g) Disclosure of Potential Conflicts of Interest. The contractor recognizes that during the term of this contract, conditions may change which may give rise to the appearance of a new conflict of interest. In such an event, the contractor shall disclose to the Government information concerning the new conflict of interest. The contractor shall provide, as a minimum, the following information:

(1) A description of the new conflict of interest (e.g., additional weapons systems supplier(s), corporate restructuring, new first-tier subcontractor(s), new contract) and identity of parties involved;

(2) A description of the work to be performed;

(3) The dollar amount;

(4) The period of performance; and

(5) A description of the contractor's internal controls and planned actions, to avoid any potential organizational conflict of interest.

## **5252.247-9510 PRESERVATION, PACKAGING, PACKING AND MARKING FOR FOREIGN**

### **MILITARY SALES (FMS) REQUIREMENTS (NAVAIR) (OCT 2005)**

(a) Unless specified elsewhere in the contract, packing and packaging shall comply with MIL-STD-129 and other

applicable DoD regulations. Packing and packaging materials shall provide protection from abuse during handling

and from environmental, magnetic, and electrical damage during handling and subsequent future storage, possibly

under less than desirable conditions.

(b) Marking: All unit and exterior containers/packs shall as a minimum be marked as follows:

(1) FMS Case Number.

(2) Part Number (with CAGE Code).

(3) For - the organization/address the material is shipped to.

(4) The applicable MILSTRIP number (identified separately for each line item of the contract/delivery order)

(5) Project Code number.

(6) Project Directive Line Item (PDLI) Number.

(7) Requisition Serial Number (RSN).

(8) Quantity.

(9) From - the contractor's address shipped from.

(10) Ship to - the shipping address provided in the contract.

(11) Transportation Priority



(12) Required Delivery Date

(c) The contractor shall affix labels to the outside of each external pack warning all handlers that fragile, delicate, etc., equipment is contained within and to warn against particular improper handling and storage procedures/conditions as may be applicable to the item(s) ordered.

**H-TXT-GFP RENT-FREE USE OF GOVERNMENT PROPERTY ACCOUNTABLE UNDER AN ALTERNATE GOVERNMENT CONTRACT (NAVAIR) (MAY 2016)**

(a) Pursuant to FAR 45.301, authorization is granted to use the Government property identified below on a noninterference basis without rental charge in the performance of this contract and subcontracts of any tier issued

hereunder. Government property currently accountable and managed under the following contracts: **To be specified in each individual order, if applicable.**

[List individual Government property and applicable contract number(s) in the table below, or if all property accountable under another contract is being authorized, state: "All property accountable under the [contract number] Contract" in lieu of filling in the table. (Remove red font instruction when incorporating into solicitation/contracts/BOAs)]

Contract Number	Nomenclature/Description	Part/Model/Number	Mfg	Serial Number (Unique Item Identifier)	Quantity/Unit of Issue	Property Provided "As Is" Yes/No	

(b) The said property shall be governed by the terms and conditions of the contract(s) under which it is accountable.

(c) The contractor is responsible for scheduling the use of the said property. The Government shall not be responsible for conflicts, delay or disruptions to any work performed by the contractor due to use of the property under this contract or any other contracts under which use of such property is authorized.