

## **Flowdown Attachment**

### **FDA-2016.390 R.3**

(updated August 9, 2021)

**Contract Number:** FA8807-12-C-0012

**DPAS Rating:** DO-A7

**SAS DUNS number:** 799855812

**If the Purchase Order is valued at or above \$550,000, and is not for commercial items, the following applies:**

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

**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. (Raytheon acknowledges that GDMS participates in the Comprehensive Small Business Subcontracting Plan (Test Program) in accordance with DFARS 252.219-7004.)**

**Email for Seller's official acknowledging or rejecting the ISR: [sas.eSRS.mail@raytheon.com](mailto:sas.eSRS.mail@raytheon.com)**  
(Seller must include contractor official on the ISR report email notification)

***The following customer contract requirements apply to this contract to the extent indicated below and are hereby incorporated into the Purchase Order by reference:***

In all 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 its 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 and (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 clauses in accordance with the flow down requirements specified in such clauses.

**SPECIAL CONTRACT REQUIREMENTS:**

**H01 ENABLING CLAUSE BETWEEN PRIME CONTRACTS AND SERVICE CONTRACTORS (APR 2012)**

Applicable to all purchase orders over \$1 million or 10% of the prime contract value.

(a) The Air Force has entered into contracts with the Contractors listed below for services to provide general systems engineering and integration (GSE&I), technical support, technical review, and acquisition management support.

MGUE Service Contractors:

Science Applications International Corporation (SAIC)

Mitre Corporation

Tecolote Research Incorporated (TRI)

ARINC

Canyon Consulting, LLC

Element Consulting Group (ECG)

Overlook Systems

Pennsylvania State University

Technalytics

Sandia National Labs (SNL)

The Aerospace Corporation

Integrated Data Services (IDS)

AeroVironment

Linqest

Mantech

Johns Hopkins University

Hughes Design Group

(b) Service tasks involve the application of a broad range of education, skills, knowledge, and experience in many disciplines in support of weapon system acquisition tasks. Tasks may involve:

(1) GSE&I may include overall system definition; integration both within the system and with associated systems; analysis of system segment and subsystem design; analysis of design compromises and tradeoffs; definition of interfaces; review of hardware and software, including manufacturing and quality control; observation, review and evaluation of tests and test data; support of launch, flight test, and orbital operations; appraisal of the Contractors' technical performance through meetings with Contractors and subcontractors; exchange and analysis of information on progress and problems; review of plans for future work; developing solutions to problems; technical alternatives for reduced program risk; providing comments and recommendations in writing to the DoD System Program Manager and/or Project Officer as an independent technical assessment for consideration for modifying the program or redirecting the Contractor's efforts; all to the extent necessary to assure timely and economical accomplishment of program objectives consistent with mission requirements.

(2) Technical Support (TS) may include broad areas of specialized needs of customers for planning, system architecting, research and development, horizontal engineering, or analytical activities. The categories of TS tasks are: Selected Research, Development, Test and Evaluation; Plans and System Architecture; Mission Oriented Investigation and Experimentation; Multi-Program Systems Enhancement; Engineering Methods; International Technology.

**H02 ENABLING CLAUSE FOR GOVERNMENT PROGRAM CONTRACTS REQUIRING INTERFACE WITH AEROSPACE FFRDC CONTRACT SUPPORT (SEP 2012)**

Applicable to all purchase orders, except for subcontracts for commercial items or commercial services.

a. This contract covers part of the MILITARY GPS USER EQUIPMENT (MGUE) program which is under the general program management of the Air Force Space and Missile Systems Center (SMC). The Air Force has entered into a contract with The Aerospace Corporation, a California nonprofit corporation operating a Federally Funded Research and Development Center (FFRDC), for the services of a technical group that will support the DoD/U.S. Government program office by performing General Systems Engineering and Integration, Technical Review, and/or Technical Support including informing the commander or director of the various Department of Defense ("DoD") organizations it supports and any U.S. Government program office of product or process defects and other relevant information, which, if not disclosed to the U.S. Government, could have adverse effects on the reliability and mission success of a U.S. Government program.

1. General Systems Engineering and Integration (GSE&I) deals with overall system definition; integration both within the system and with associated systems; analysis of system segment and subsystem design; design compromises and tradeoffs; definition of interfaces; review of hardware and software, including manufacturing and quality control; observation, review and evaluation of tests and test data; support of launch, flight test, and orbital operations; appraisal of the contractors' technical performance through meetings with contractors and subcontractors, exchange and analysis of information on progress and problems; review of plans for future work; developing solutions to problems; technical alternatives for reduced program risk; providing comments and recommendations in writing to the applicable DoD System Program Manager and/or Project Officer as an independent technical assessment for consideration for modifying the program or redirecting the contractor's efforts; all to the extent necessary to assure timely and economical accomplishment of program objectives consistent with mission requirements.

2. Technical Review (TR) includes the process of appraising the technical performance of the contractor through meetings, exchanging information on progress and problems, reviewing reports, evaluating presentations, reviewing hardware and software, witnessing and evaluating tests, analyzing plans for future work, evaluating efforts relative to contract technical objectives, and providing comments and recommendations in writing to the applicable Air Force Program Manager as an independent technical assessment for consideration for modifying the program or redirecting the contractor's efforts to assure timely and economical accomplishment of program objectives.

3. Technical Support (TS) deals with broad areas of specialized needs of customers for planning, system architecting, research and development, horizontal engineering, or analytical activities for which The Aerospace Corporation is uniquely qualified by virtue of its specially qualified personnel, facilities, or corporate memory. The categories of TS tasks are: Selected Research, Development, Test and Evaluation; Plans and System Architecture; Multi-Program Systems Enhancement; International Technology Assessment; and Acquisition Support.

b. In the performance of this contract, the contractor agrees to cooperate with The Aerospace Corporation by 1) responding to invitations from authorized U. S. Government personnel to attend meetings; 2) by providing access to technical information and research, development planning data such as, but not limited to, design and development analyses, test data and results, equipment and process specifications, test and test equipment specifications and procedures, parts and quality control procedures, records and data, manufacturing and assembly procedures, and schedule and milestone data, all in their original form or reproduced form and including top-level life cycle cost\* data, where available; 3) by discussing technical matters relating to this program; 4) by providing access to contractor facilities utilized in the performance of this contract; 5) and by allowing observation of technical activities by appropriate technical personnel of The Aerospace Corporation.

c. The contractor further agrees to include in all subcontracts a clause requiring compliance by subcontractor and supplier and succeeding levels of subcontractors and suppliers with the response and access and disclosure provisions of this Enabling Clause, subject to coordination with the contractor, except for subcontracts for commercial items or commercial services. This agreement does not relieve the contractor of its responsibility to manage the subcontracts effectively and efficiently nor is it intended to establish privity of contract between the Government or The Aerospace Corporation and such subcontractors or suppliers, except as indicated in paragraph (d) below.

d. The Aerospace Corporation shall protect the proprietary information of contractors, subcontractors, and suppliers in accordance with the Nondisclosure Agreement The Aerospace Corporation entered into with the Air Force, a copy of which is available upon request. This Nondisclosure Agreement satisfies the Nondisclosure Agreement requirements set forth in 10 U.S.C. §2320 (f)(2)(B), and provides that such contractors, subcontractors, and suppliers are intended third-party beneficiaries under the Nondisclosure Agreement and shall have the full rights to enforce the terms and conditions of the Nondisclosure Agreement directly against The Aerospace Corporation, as if they had been signatory party hereto. Each such contractor, subcontractor, or supplier hereby waives any requirement for The Aerospace Corporation to enter into any separate company-to-company confidentiality or other nondisclosure agreements.

e. Aerospace shall make the technical information (including proprietary information) available only to its Trustees, officers, employees, contractor labor, consultants, and attorneys who have a need to know, and Aerospace shall maintain between itself and the foregoing binding agreements of general application as may be necessary to fulfill their obligations under the Nondisclosure Agreement referred to herein, and Aerospace agrees that it will inform contractors, subcontractors, and suppliers if it plans to use consultants, or contract labor personnel and, upon the request of such contractor, subcontractor, or supplier, to have its consultants and contract labor personnel execute nondisclosure agreements directly therewith.

f. The Aerospace Corporation personnel are not authorized to direct the contractor in any manner. The contractor agrees to accept technical direction as follows:

1. Technical direction under this contract will be given to the contractor solely by SMC.
2. Whenever it becomes necessary to modify the contract and redirect the effort, a change order signed by the Contracting Officer or a Supplemental Agreement signed by both the Contracting Officer and the contractor will be issued.

\* Cost data is defined as information associated with the programmatic elements of life cycle (concept, development, production, operations, and retirement) of the system/program. As defined, cost data

differs from "financial" data, which is defined as information associated with the internal workings of a company or contractor that is not specific to a project or program.

(End of Clause)

### **H03 ASSOCIATE CONTRACT AGREEMENTS (APR 2012)**

Applicable to all Purchase Orders that require joint participation.

a) The Contractor shall enter into Associate Contract Agreements (ACA) for any portion of the contract requiring joint participation in the accomplishment of the Government's requirement only when officially directed by the Contracting Officer. The agreements shall include the basis for sharing information, data, technical knowledge, expertise, resources, or any combination thereof, essential to the integration of the MGUE, which shall ensure the greatest degree of cooperation for the development of the program to meet the terms of the contract. Associate contractors are listed in (h) below.

(b) ACAs shall:

(1) Identify the associate contractors and their relationships.

(2) Identify the program involved and the relevant Government contracts of the associate contractors.

(3) Describe the associate contractor interfaces by general subject matter.

(4) Specify the categories of information to be exchanged or support to be provided.

(5) Include the expiration date (or event) of the ACA.

(6) Identify potential conflicts between relevant Government contracts and the ACA and include agreements on protection of proprietary data and restrictions on employees.

(c) A copy of such agreement shall be provided to the Contracting Officer for review before execution of the document by the cooperating contracts.

(d) Nothing in the foregoing shall affect compliance with the requirements of H04, Organizational Conflict of Interest (OCI).

(e) The Contractor is not relieved of any contract requirements or entitled to any adjustments to the contract terms because of a failure to resolve a disagreement with an associate contractor. However, the Government may assist the Contractor in the event of non-responsiveness from an associate contractor.

(f) Liability for the improper disclosure of any proprietary data contained in or referenced by any agreement shall rest with the parties to the agreement, and not the Government.

(g) All costs associated with the agreements are included in the negotiated cost of this contract. Agreements may be amended and associate contractors added or deleted as required by the Government during the performance of this contract.

(h) The contractor shall only enter into ACAs with the below listed associate contractors upon official direction from the Contracting Officer:

GPS IIF/OCS Program  
The Boeing Company  
2201 Seal Beach Blvd  
Seal Beach, Ca 90740-1550  
Ms. Sonja Peltz, (562) 797-1048  
Sonja.c.Peltz@boeing.com mailto: [Sonja.c.Peltz@boeing.com](mailto:Sonja.c.Peltz@boeing.com)

GPS III Program  
Lockheed Martin Space Systems Company  
100 Campus Drive, PGB 308  
Newtown, PA 18940-1784  
Sandra Sheasley, (215) 497-2258  
sandra.l.sheasley@lmco.com mailto: [sandra.l.sheasley@lmco.com](mailto:sandra.l.sheasley@lmco.com)

GPS Advance Control Segment (OCX) Program  
Raytheon Information and Intelligence Systems  
16800 Centre Tech Pkwy  
Aurora, CO 80011  
Darline Blea, (720) 858-5172  
dsblea@raytheon.com mailto: [dsblea@raytheon.com](mailto:dsblea@raytheon.com)

GPSW Systems Engineering & Integration (SE&I)  
Science Applications International Corporation  
Technology Services Company  
10260 Campus Point Drive  
San Diego, CA 92121-1522  
Linda Harriel, (310) 416-8321  
Linda.A.Harriel@saic.com mailto: [Linda.A.Harriel@saic.com](mailto:Linda.A.Harriel@saic.com)

F-15E Program  
The Boeing Company  
Defense, Space & Security  
6200 J.S. McDonnell Blvd.  
St Louis, MO 63134  
Ellen Cantwell, (314) 234-6716  
ellen.e.cantwell@boeing.com mailto: [ellen.e.cantwell@boeing.com](mailto:ellen.e.cantwell@boeing.com)

EGI Program  
Honeywell Defense and Space Electronics Systems  
Clearwater Defense Operations  
13350 US Highway 19 North  
Clearwater, FL 33764  
Curtis Cutright, (727) 539-4644  
Curtis.cutright@honeywll.com mailto: [Curtis.cutright@honeywll.com](mailto:Curtis.cutright@honeywll.com)

Amphibious Assault Vehicle  
BAE Systems

1000 Corporate Dr., Ste 305  
Stafford, VA 22554  
Scott Bare, (703) 445-0551  
Scott.Bare@baesystems.com mailto: [Scott.Bare@baesystems.com](mailto:Scott.Bare@baesystems.com)

Raven Program  
AeroVironment, Inc.  
181 W. Huntington Drive, Suite 202  
Monrovia, CA 91016  
Max Caramanian, (256) 313-5317  
M.A.Caramanian@us.army.mil mailto: [M.A.Caramanian@us.army.mil](mailto:M.A.Caramanian@us.army.mil)

#### **H04 ORGANIZATIONAL CONFLICT OF INTEREST (APR 2012)**

Applicable to all Purchase Orders.

(a) Purpose. The purpose of this clause is to prevent conflicting roles which may bias the Contractor's judgment or objectivity, and to preclude the contract from obtaining an unfair competitive advantage in concurrent or future GPS and GPS related acquisitions.

(b) Descriptions or definitions:

(1) 'Conflicted Team Member' means the MGUE prime contractor or any MGUE team member who has a conflicted relationship with another contractor related to the GPS Enterprise.

(2) 'Contractor' means the business entity receiving the award of this contract. It does NOT include the entity's parent, or other affiliates, divisions or subsidiaries of that parent entity.

(3) 'Development' means all efforts toward solution of broadly defined problems. This may encompass research, evaluating technical feasibility, proof of design and test, or engineering of programs not yet approved for acquisition or operation.

(4) 'Division' means a business entity that maintains organizational, geographic, and data separation and protection separation from the entity's parent. "Division" also means a business entity that maintains organizational, geographic, and data separation and protection separation from other entities owned by, affiliated with, or a division or subsidiary of that parent company, corporation or organization.

(i) 'Organizational Separation' means the management, program staff, and administrative support staff of the 'division' participating in this contract resides in a separate business entity of the parent company, corporation or organization and reports through a separate management chain than the management, program staff, and administrative support staff of any other 'division' participating in the GPS segment contracts.

(ii) 'Geographic Separation' means, at a minimum, the MGUE program contractor employees must work in separate office buildings than management, program staff, and administrative support staff working on any other GPS segment contracts.

(iii) 'Data Separation and Protection' means the management, program staff, and administrative support staff of the 'division' participating in this contract must implement and maintain information-handling procedures to ensure that data related to MGUE is not accessible by the management,

program staff, and administrative support staff of any other 'division' participating in the GPS segment contracts or higher management of the parent company, corporation or organization. This separation must be controlled and monitored.

(5) 'GPS Enterprise' means the collection of all systems that provide the Global Positioning System capability.

(6) 'MGUE' includes all work performed under the MGUE contract.

(7) 'GPS segment' means the GPS space, ground, user equipment segments and Systems Engineering and Integration (SE&I) contract.

(8) 'Proprietary Information' means all information designated as proprietary in accordance with law and regulation, and held in confidence or disclosed under restriction to prevent uncontrolled distribution. Examples include limited or restricted data, trade secrets, sensitive financial information, and computer software; and may appear in cost and pricing data or involve classified information.

#### **H06 REGISTRATION WITH U.S./CANADA JOINT CERTIFICATION PROGRAM (APR 2012)**

Applicable to all Purchase Orders where subcontractors may have access during performance of the contract to export controlled technical data.

The Contractor, teammates, and all subcontractors who may have access during performance of the contract to export controlled technical data shall register with the U.S./Canada Joint Certification Program at [www.dlis.dla.mil/ccal/](http://www.dlis.dla.mil/ccal/) to establish eligibility to obtain access to export controlled technical data governed by DoD Directive 5230.25 that discloses militarily critical technology with military or space applications.

#### **H09 RESTRICTION ON FABRICATION AND MANUFACTURING OF APPLICATION SPECIFIC INTEGRATED CIRCUITS (APR 2012)**

Applicable to all subcontracts, except those for (1) Commercial items other than ASICs or (2) Items that do not contain ASICs.

(a) Definitions. For purposes of this clause,

(1) The term "Application Specific Integrated Circuit" (ASIC) means any custom microelectronics device (digital or mixed-mode digital/analog) that is fabricated at a semiconductor foundry, including fully custom integrated circuits and gate array class devices.

(2) "Trusted Facility" means a supplier that has been accredited by the Defense Microelectronics Activity (DMEA) (<<http://www.dmea.osd.mil/trustedic.html>>).

(3) "Trusted Foundry" means a semiconductor manufacturing facility that has been certified by the authority designated by the Under Secretary of Defense for Acquisition, Technology and Logistics (USD/AT&L) to provide secure semiconductor fabrication and data management, including the capability for fabricating classified ASIC designs. Trusted Foundry certification requires engagement of the DoD designated certification authority in ASIC manufacturing processes outside of secure foundry environments, e.g. for incorporation of commercial products.



(b) Except as provided in paragraph (c) of this clause, all custom-designed and custom manufactured integrated circuits (ASICs) acquired pursuant to this contract, either as end items or components of end items, shall be wholly fabricated, manufactured, packaged, and tested at DoD certified trusted foundries and accredited trusted facilities.

(c) The restriction under paragraph (b) of this clause does not apply to: (1) Commercially available-off-the-shelf (COTS) microelectronic devices that are procured via standard part numbers and are not modified at the manufacturer for DoD use.

(2) Field Programmable Gate Array (FPGA) devices that are procured via standard part numbers and are later personalized at DoD laboratories or Contractor facilities

(3) Custom microelectronic devices that are analog in nature (e.g. radio frequency amplifiers, custom analog hybrids) that do not contain any digital logic.

(d) Should the contractor determine that relief from the restriction in paragraph (b) is necessary, the Contractor must provide compelling rationale for waiver of this restriction, including quantification of cost, schedule or performance impacts, and a proposed vulnerability mitigation strategy. The contractor shall not take any actions contrary to the requirements of paragraph (b) and (c) by the Procurement.

(e) The Contractor shall retain records showing compliance with the restriction in paragraph (b) of this clause until three years after final payment and shall make the records available upon request of the PCO.

(f) The Contractor shall insert this clause, including this paragraph, in all subcontracts, except those for:

(1) Commercial items other than ASICs or

(2) Items that do not contain ASICs.

**The following clauses apply to all Purchase Orders, including those for “Commercial Item(s)”, as defined in FAR 2.101:**

Clause Number	Title	Applicability (Reference to “Purchase Orders” includes underlying Solicitations)
5352.201-9101	Ombudsman (Apr 2010)	Applicable to all Purchase Orders.  Para (c). Ombudsmen names, addresses, phone numbers, fax, and email addresses. 'SMC/PK Attn. Mr. James H. Gill, 483 N. Aviation Blvd. El Segundo CA 90245 Phone: (310) 653-1789 Email: James.Gill@losangeles.af.mil'
5352.209-9000	Organizational Conflict of Interest (OCT 2010)- Alternate III (OCT 2010)	Applicable to all purchase orders.
5352.223-9000	Elimination Of Use of Class I Ozone Depleting Substances (ODS) (APR 2003)	Applicable to all purchase orders.

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Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.203-13	Contractor Code of Business Ethics and Conduct. (APR 2010)	Applicable to Purchase Orders (i) that have a value more than \$5,000,000 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 52.215-21 Alt IV	Requirements For Certified Cost Or Pricing Data And Data Other Than Certified Cost Or Pricing Data-- Modifications (OCT 2010) - Alternate IV (OCT 1997)	Applicable to all Purchase Orders in excess of \$2,000,000.
DFARS 252.203-7000	Requirements Relating to Compensation of Former DoD Officials. (SEP 2011)	Buyer's prime contract contains FAR 252.203-7000, Requirements Relating to Compensation of Former DoD Officials, therefore Seller agrees to not knowingly provide compensation to a covered DoD official within 2 years after the official leaves DoD service.
DFARS 252.229-7999	Taxes – Foreign Contracts in Afghanistan (DEVIATION 2013-00016) (JUL 2013)	Applicable to all Purchase Orders.
DFARS 252.234-7002	Earned Value Management System (MAY 2011)	General Dynamics and Trimble Military & Advanced Systems.
DFARS 252.234-7004	Cost and Software Data Reporting System (NOV 2010)	Applicable to all Purchase Orders exceeding \$50 million.
FAR 52.211-15	Defense Priority and Allocation Requirements. (AUG 2008)	Applicable to all Purchase Orders with a DPAS rating.
FAR 52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services-- Requirements (MAY 2014)	Applicable to Purchase Orders for exempt services per the clause.
FAR 52.223-5	Pollution Prevention and Right-to-Know Information (MAY 2011)	Applicable to all Purchase Orders that provide for performance on a Federal facility per the terms of the clause.
DFARS 252.227-7039	Patents--Reporting of Subject Inventions. (APR 1990)	Applicable to solicitations and resulting Purchase Orders that will include the clause at FAR 52.227-11 for experimental, developmental, or research work to be performed by a small business concern or nonprofit organization
DFARS 252.235-7003 Alt I	Frequency Authorization. (DEC 1991) Alt I (AUG 2008)	Applicable to Purchase Orders requiring the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required.
252.235-7010	Acknowledgment of Support and Disclaimer (MAY 1995)	Applicable to all Purchase Orders for research and development.  Para (a), name of contracting agency(ies): 'United States

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Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
		Air Force' Para (a), contract number(s): 'FA8807-12-C-0012' Para (b), name of contracting agency(ies): 'United States Air Force'
252.251-7000	Ordering From Government Supply Sources (Aug 2012)	Applicable to Purchase 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 Purchase Order.  Para (f), Contractor's address is ' Theodorshia Nelson Raytheon Space & Airborne Systems 2000 E. El Segundo Blvd P.O.Box 90002, El Segundo, CA 90245 ph 319-295-8814' Para (f), Government remittance address is 'N/A'

**In addition to the clauses listed above, the following clauses apply to all Purchase Orders for goods or services not meeting the definition of a "Commercial Item" in FAR 2.101:**

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.232-99	Providing Accelerated Payment to Small Business Subcontractors (Deviation) (AUG 2012)	Applicable to all purchase orders.
DFARS 252.225-7006	Quarterly Reporting of Actual Contract Performance Outside the United States. (OCT 2010)	Applicable to all first-tier subcontracts exceeding \$650,000, except those for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.
FAR 52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (AUG 2012)	Applicable when the Buyer is the Prime Contractor and the Purchase Order exceeds \$25,000. Substitution of the parties is not applicable to this clause. Seller shall report to Buyer the information required under the clause.
FAR 52.209-6	Protecting the Governments Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (DEC 2010)	Applicable to Purchase Orders exceeding \$30,000.
FAR 52.215-10	Price Reduction for Defective Certified Cost or Pricing Data. (AUG 2011)	Applicable to all Purchase Orders that require the Seller to provide certified cost or pricing data. This clause does not apply to Purchase Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.
FAR 52.215-12	Subcontractor Certified Cost or Pricing Data (OCT 2010)	Applicable if the Purchase Orders in excess of \$750,000. This clause does not apply to Purchase Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.

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Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.219-9 Alt II	Small Business Subcontracting Plan. (JAN 2011) - Alt II (OCT 2001)	Applicable to Purchase Orders over \$550,000 and to Purchase Orders to the extent that the work under the Purchase 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 Purchase Order. Not applicable to Purchase Orders for commercial items.
FAR 52.222-26	Equal Opportunity (MAR 2007)	Applicable to Purchase Orders exceeding \$10,000. Foreign Sellers: Applicable to Purchase Orders except to the extent that work under the Purchase Order will be performed outside the United States or by employees that are not recruited within the United States to work on the Purchase 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 Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2010)	Applicable to Purchase Orders of \$100,000 or more (\$150,000 under prime contracts awarded after 9/30/2015). Foreign Sellers: Applicable to Purchase Orders when the listing of employment openings for purposes of work to be performed under this Purchase Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island. No substitution of parties.
FAR 52.222-36	Affirmative Action for Workers With Disabilities (OCT 2010)	Applicable to Purchase Orders exceeding \$15,000. Foreign Sellers: Applicable to Purchase Orders to the extent that work under the Purchase 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 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 Purchase Order. No substitution of parties.
FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2010)	Applicable to Purchase Orders of \$100,000 or more. Foreign Sellers: Applicable to Purchase Orders when the listing of employment openings for purposes of work to be performed under this Purchase Order occur and are filled within the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.
FAR 52.222-50	Combating Trafficking in Persons. (FEB 2009)	Applicable to all purchase orders.
FAR 52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (MAY 2014)	Applicable to Purchase Orders for exempt services per the clause.
FAR 52.223-5	Pollution Prevention and Right-to-Know Information (MAY 2011)	Applicable to all Purchase Orders that provide for performance on a Federal facility per the terms of the clause.
FAR 52.223-11	Ozone-Depleting Substances (JUN 2016)	Buyer's prime contract contains FAR 52.223-11, Ozone-Depleting Substances, therefore Seller agrees to label products which contain or are manufactured with ozone-depleting substances as describe in this paragraph.

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Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
FAR 52.227-13	Patent Rights -- Ownership by the Government (DEC 2007)	Applicable to all Purchase Orders for experimental, developmental or research work. Paragraph (g) is deleted.
FAR 52.227-16	Additional Data Requirements (JUN 1987)	Applicable to all Purchase Orders involving experimental, developmental, research or demonstration work (other than basic or applied research to be performed solely by a university or college under \$500K)
FAR 52.227-17	Rights in Data -- Special Works (DEC 2007)	Applicable to Purchase Orders for the for production or compilation of data (other than limited rights data or restricted computer software) for Government internal use, or when a specific need to limit distribution and use of the data or to obtain indemnity for liabilities that may arise from the content, performance, or disclosure of the data.
FAR 52.230-2	Cost Accounting Standards (MAY 2012)	Applicable to all Purchase Orders in excess of \$700,000. This clause does not apply to Purchase Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.
FAR 52.230-3	Disclosure and Consistency of Cost Accounting Practices (MAY 2012)	Applicable to all Purchase Orders in excess of \$700,000. This clause does not apply to Purchase Orders for commercial items or if the Seller qualifies for any of the other exemptions in FAR 15.403-1.
FAR 52.230-6	Administration of Cost Accounting Standards (JUN 2010)	Applicable when stated in the Purchase Order.
FAR 52.232-32	Performance-Based Payments (Apr 2012)	Applicable to Purchase Orders only when Performance Based Payments are expressly approved by Buyer via order specific text on the Purchase Order.
FAR 52.232-39	Unenforceability of Unauthorized Obligations (JUN 2013)	Applicable to all Purchase Orders involving EULA, TOS, or similar software agreement.
FAR 52.234-4	Earned Value Management System (Nov 2016)	Applicable to Sellers listed in paragraph (g) of the clause.
FAR 52.243-2	Changes-Cost-Reimbursement (AUG 1987) - Alternate II (APR 1984)	Applicable to cost-reimbursement Purchase Orders.
FAR 52.245-1	Government Property. (APR 2012)	Applicable to Purchase Orders issued under non DoD prime contracts containing FAR 52.245-1 without Alternate I and the Purchase Order is either a cost-reimbursement, time and materials, or labor hour type, or is a fixed priced Purchase Order awarded on the basis of submission of certified cost or pricing data (reference FAR 45.104). Under DoD prime contracts containing FAR 52.245-1 without Alternate I, in addition to the Purchase Order types listed at FAR 45.104, the clause is applicable to negotiated fixed-price Purchase Orders awarded on a basis other than submission of certified cost or pricing data.
DFARS 252.203-7004	Display of Hotline Posters. (Sep 2011)	Applicable to Purchase Orders that exceed \$5.0 million, except Purchase Orders that are for acquisition of a commercial item.  Para (b)(2). C.O. enters contact information. ' DoD Inspector General ATTN: Defense Hotline 400 Army Navy Drive

Clause Number	Title	Applicability (Reference to "Purchase Orders" includes underlying Solicitations)
		Arlington, VA 22202-4704
DFARS 252.211-7007	Reporting of Government-Furnished Property (AUG 2012)	Applicable to Purchase Orders when FAR Clause 52.245-1 is contained in the prime contract and Seller is in possession of Government Property. Seller will comply with paragraph (d) of this clause by providing Buyer a Microsoft Excel report containing the data elements required in paragraph (d) when in possession of Government-furnished property.
DFARS 252.246-7001	Warranty of Data. (DEC 1991)	Applicable to solicitations and resulting Purchase Orders that will include DFARS clause 252.227-7013.

**CLAUSES INCORPORATED BY FULL TEXT:**

**52.216-7 VALUE ENGINEERING (OCT 2010)**

Applicable to cost plus fixed fee Purchase Orders.

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

(b) *Definitions.*

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

Acquisition savings include—

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

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

- (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.

- (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

- (3) Identification of the unit to which the VECP applies.

- (4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause.

- (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

- (6) A prediction of any effects the proposed change would have on collateral costs to the agency.

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

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

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

- (e) Government action.



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

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

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

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

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

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

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

<b>Contractor's Share of Net Acquisition Savings (Figure in Percent)</b>				
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)	*50	*50	25	25
Incentive (fixed-price or cost) (other than award fee)	(**)	*50	(**)	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive contracts)	***25	***25	15	15

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

VECP.

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

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

(g) Calculating net acquisition savings.

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

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

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

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

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

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

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

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

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

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

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

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

(i) Concurrent and future contract savings.

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

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

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

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

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

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

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

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

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

(5) *Alternate no-cost settlement method.* When, in accordance with subsection [48.104-4](#) of the Federal Acquisition Regulation, 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 of \$150,000 or more 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)

**52.227-21 TECHNICAL DATA DECLARATION, REVISION AND WITHHOLDING OF PAYMENT – MAJOR SYSTEMS (MAY 2014)**

Applicable to all Purchase Orders requiring delivery of technical data. This requirement includes contracts for detailed design, development, or production of a major system and contracts for any individual part, component, subassembly, assembly, or subsystem integral to the major system, and other property that may be replaced during the service life of the system, including spare parts.

- (a) Scope of declaration. The Contractor shall provide, in accordance with [41 U.S.C. 2302\(e\)\(7\)](#), the following declaration with respect to all technical data that relate to a major system and that are delivered or required to be delivered under this contract or that are delivered within 3 years after acceptance of all items (other than technical data) delivered under this contract unless a different period is set forth in the contract. The Contracting Officer may release the Contractor from all or part of the requirements of this clause for specifically identified technical data items at any time during the period covered by this clause.

(b) Technical data declaration.

(1) All technical data that are subject to this clause shall be accompanied by the following declaration upon delivery:

Technical Data Declaration (JAN 1997)

The Contractor, \_\_\_\_\_, hereby declares that, to the best of its knowledge and belief, the technical data delivered herewith under Government contract No. \_\_\_\_\_ (and subcontract \_\_\_\_\_, if appropriate) are complete, accurate, and comply with the requirements of the contract concerning such technical data.

(End of declaration)

(2) The Government may, at any time during the period covered by this clause, direct correction of any deficiencies that are not in compliance with contract requirements. The corrections shall be made at the expense of the Contractor. Unauthorized markings on data shall not be considered a deficiency for the purpose of this clause, but will be treated in accordance with paragraph (e) of the Rights in Data—General clause included in this contract.

(c) Technical data revision. The Contractor also shall, at the request of the Contracting Officer, revise technical data that are subject to this clause to reflect engineering design changes made during the performance of this contract and affecting the form, fit, and function of any item (other than technical data) delivered under this contract. The Contractor may submit a request for an equitable adjustment to the terms and conditions of this contract for any revisions to technical data made pursuant to this paragraph.

(d) Withholding of payment.

(1) At any time before final payment under this contract the Contracting Officer may withhold payment as a reserve up to an amount not exceeding \$100,000 or 5 percent of the amount of this contract, whichever is less, if the Contractor fails to—

- (i) Make timely delivery of the technical data;

- (ii) Provide the declaration required by paragraph (b)(1) of this clause;
- (iii) Make the corrections required by paragraph (b)(2) of this clause; or
- (iv) Make revisions requested under paragraph (c) of this clause.

(2) The Contracting Officer may withhold the reserve until the Contractor has complied with the direction or requests of the Contracting Officer or determines that the deficiencies relating to delivered data, arose out of causes beyond the control of the Contractor and without the fault or negligence of the Contractor.

(3) The withholding of any reserve under this clause, or the subsequent payment of the reserve, shall not be construed as a waiver of any Government rights.

(End of clause)

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

(Paragraphs (g) and (h) of the clause are applicable to all Purchase Orders.)

(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 sub-contract. Subcontract means any contract, as defined in FAR Subpart 2.1, entered into by a sub-contractor to furnish supplies or services for performance of the prime contract, or a sub-contract. 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 un-priced 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 sub-contract 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 sub-contracts: **approval required on subcontracts \$500,000 or as required by Contract Officer.**

(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 sub-contract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

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

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

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the sub-contract price negotiations;

(B) The most significant considerations controlling establishment of initial or re-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: **General Dynamics and Trimble Military & Advanced Systems**

(End of clause)

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

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

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

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

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

(1) Any subcontract for critical and complex items (see 46.203(b) and (c)); or

(2) When the technical requirements of a subcontract require—

(i) Control of such things as design, work operations, in-process control, testing, and inspection;  
or

(ii) Attention to such factors as organization, planning, work instructions, documentation control, and advanced metrology.

(End of clause)



**52.248-1 VALUE ENGINEERING (OCT 2010)**

Applicable to Purchase Orders at or above the simplified acquisition threshold.

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

(b) *Definitions.*

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

Acquisition savings include—

(1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;

(2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and

(3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

"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 paragraphs (c)(1) through (8) of this clause. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those

procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) Identification of the unit to which the VECP applies.

(4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause.

(5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(6) A prediction of any effects the proposed change would have on collateral costs to the agency.

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

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

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

(e) Government action.

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

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

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the

Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

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

- (1) This contract’s type (fixed-price, incentive, or cost-reimbursement);
- (2) The sharing arrangement specified in paragraph (a) of this clause (incentive, program requirement, or a combination as delineated in the Schedule); and
- (3) The source of the savings (the instant contract, or concurrent and future contracts), as follows:

<b>Contractor’s Share of Net Acquisition Savings (Figure in Percent)</b>				
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)	*50	*50	25	25
Incentive (fixed-price or cost) (other than award fee)	(**)	*50	(**)	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive contracts)	***25	***25	15	15
<p>* The Contracting Office may increase the Contractor’s sharing rate to as high as 75 percent for each VECP.</p> <p>** Same sharing arrangement as the contract’s profit or fee adjustment formula.</p> <p>*** The Contracting Office may increase the Contractor’s sharing rate to as high as 50 percent for each VECP.</p>				

(g) Calculating net acquisition savings.

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

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

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

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

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

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

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

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

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

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

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

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

(i) Concurrent and future contract savings.

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

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

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

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

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

- (i) Multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period;
- (ii) Subtracting any Government costs or negative instant contract savings not yet offset; and
- (iii) Multiplying the result by the Contractor's sharing rate.

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

(5) *Alternate no-cost settlement method.* When, in accordance with subsection [48.104-4](#) of the Federal Acquisition Regulation, 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 of \$150,000 or more 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)