

T CIWS – N00104-23-P-QA73

Business Unit: RMD

Customer Contract Number:

Prime Contract Number: N00104-23-P-QA73

Task Order/Delivery Order Number:

Modification Number:

DPAS Rating: D0-A3

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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:

- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Jun 2020)**
- 52.204-9 Personal Identity Verification of Contractor Personnel (Jan 2011)**
- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020)**
- 52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021)**
- 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)**
- 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)**
- 52.211-5 Material Requirements (Aug 2000)**
- 52.222-19 Child Labor-Cooperation with Authorities and Remedies (Jan 2022)**

52.222-20 Contracts for Materials, Supplies, Articles, and Equipment (Jun 2020)
 52.222-21 Prohibition of Segregated Facilities (Apr 2015)
 52.222-26 Equal Opportunity (Sep 2016)
 52.222-50 Combating Trafficking in Persons (Nov 2021)
 52.223-18 Encouraging Contractor Policies To Ban Text Messaging While Driving (Jun 2020)
 52.244-6 Subcontracts for Commercial Products and Commercial Services (Jan 2022)
 52.246-2 Inspection of Supplies-Fixed-Price (Aug 1996)
 252.203-7000 Requirements Relating to Compensation of Former DoD Officials (Sep 2011)
 252.203-7002 Requirement to Inform Employees of Whistleblower Rights (Sep 2013)
 252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting (Dec 2019)
 252.204-7015 Disclosure of Information to Litigation Support Contractors (Feb 2014)
 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services (Jan 2021)
 252.204-7020 NIST SP 800-171 DoD Assessment Requirements (Mar 2022)
 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)
 252.211-7003 Item Unique Identification and Valuation (Mar 2022)
 252.211-7006 Passive Radio Frequency Identification (Dec 2019)
 252.223-7001 Hazard Warning Labels (Dec 1991)
 252.223-7008 Prohibition of Hexavalent Chromium (Jun 2013)
 252.225-7001 Buy American and Balance of Payments Program - Alternate I (Mar 2022)
 252.225-7012 Preference for Certain Domestic Commodities (Mar 2022)
 252.225-7013 Duty-Free Entry (Mar 2022)
 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings (Jun 2011)
 252.225-7025 Restriction on Acquisition of Forgings (Dec 2009)
 252.225-7036 Buy American—Free Trade Agreements—Balance of Payments Program—Basic (Mar 2022)
 252.225-7048 Export-Controlled Items (Jun 2013)
 252.227-7025 Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends (May 2013)
 252.232-7017 Accelerating Payments to Small Business Subcontractors—Prohibition on Fees and Consideration (Apr 2020)
 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Jan 2021)
 252.246-7003 Notification of Potential Safety Issues (Jun 2013)
 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System (Aug 2016)
 252.246-7008 Sources of Electronic Parts (May 2018)

CLAUSES INCORPORATED BY FULL TEXT

52.203-12 Limitation on Payments to Influence Certain Federal Transactions.

As prescribed in [3.808\(b\)](#), insert the following clause:

Limitation on Payments to Influence Certain Federal Transactions (Jun 2020)

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

Agency means "*executive agency*" as defined in Federal *Acquisition* Regulation (FAR) [2.101](#).

Covered Federal action means any of the following actions:

- (1) Awarding any Federal contract.
- (2) Making any Federal grant.
- (3) Making any Federal loan.
- (4) Entering into any cooperative agreement.
- (5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and "tribal organization" have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act ([25 U.S.C. 450b](#)) and include Alaskan Natives.

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any *covered Federal action*.

Local government means a unit of government in a *State* and, if chartered, established, or otherwise recognized by a *State* for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a *local government*.

Officer or employee of an agency includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under Title 5, *United States Code*, including a position under a temporary appointment.

(2) A member of the uniformed services, as defined in subsection 101(3), Title 37, *United States Code*.

(3) A special Government employee, as defined in section 202, Title 18, *United States Code*.

(4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, *United States Code*, appendix 2.

Person means an individual, corporation, company, association, authority, firm, partnership, society, *State*, and *local government*, regardless of whether such entity is operated for profit, or not for profit. This term excludes an *Indian tribe*, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Reasonable compensation means, with respect to a *regularly employed* officer or employee of any *person*, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient includes the Contractor and all subcontractors. This term excludes an *Indian tribe*, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and *are* permitted by other Federal law.

Regularly employed means, with respect to an officer or employee of a *person* requesting or receiving a Federal contract, an officer or employee who is employed by such *person* for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such *person* for receipt of such contract. An officer or employee who is employed by such *person* for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such *person* *shall* be considered to be *regularly employed* as soon as he or she is employed by such *person* for 130 working days.

State means a *State* of the *United States*, the District of Columbia, or an outlying area of the *United States*, an agency or instrumentality of a *State*, and multi-*State*, regional, or interstate entity having governmental duties and powers.

(b) *Prohibition.* [31 U.S.C. 1352](#) prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any *person* for *influencing or attempting to influence* an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any *covered Federal actions*. In accordance with [31 U.S.C. 1352](#) the Contractor *shall* not use appropriated funds to pay any *person* for *influencing or attempting to influence* an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contractor the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term *appropriated funds* does not include profit or fee from a *covered Federal action*.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) *Exceptions.* The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) *Agency and legislative liaison by Contractor employees.*

(i) Payment of *reasonable compensation* made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific *solicitation* for any *covered Federal action*, but that concern-

(A) The qualities and characteristics (including individual demonstrations) of the *person's products* or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the *person's products* or services for an agency's use.

(iii) Providing prior to formal *solicitation* of any *covered Federal action* any information not specifically requested but necessary for an agency to make an informed decision about initiation of a *covered Federal action*;

(iv) Participating in technical discussions regarding the preparation of an *unsolicited proposal* prior to its official submission; and

(v) Making capability presentations prior to formal *solicitation* of any *covered Federal action* by *persons* seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub. L. 95-507, and subsequent amendments.

(2) *Professional and technical services.*

(i) A payment of *reasonable compensation* made to an officer or employee of a *person* requesting or receiving a *covered Federal action* or an extension, continuation, renewal, amendment, or modification of a *covered Federal action*, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any *reasonable payment* to a *person*, other than an officer or employee of a *person* requesting or receiving a *covered Federal action* or an extension, continuation, renewal, amendment, or modification of a *covered Federal action* if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. *Persons* other than officers or employees of a *person* requesting or receiving a *covered Federal action* include consultants and trade associations.

(iii) As used in paragraph (c)(2) of this clause, "professional and technical services" are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR [3.803\(a\)\(2\)\(iii\)](#)).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) *Disclosure.*

(1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its *offer*, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor *shall* complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor *shall*, at the end of the calendar quarter in which the change occurs, submit to the *Contracting Officer* within 30 days an updated disclosure using OMB Standard Form LLL.

(e) *Penalties.*

(1) Any *person* who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause *shall* be subject to civil penalties as provided for by [31 U.S.C. 1352](#). An imposition of a civil penalty does not prevent the Government from seeking any other remedy that *may* be applicable.

(2) Contractors *may* rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) *Cost allowability.* Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(g) *Subcontracts.*

(1) The Contractor *shall* obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each *person* requesting or receiving a subcontract under this contract that exceeds the threshold specified in FAR [3.808](#) on the date of subcontract award. The Contractor or subcontractor that awards the subcontract *shall* retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) *shall* be forwarded from tier to tier until received by the prime Contractor. The prime Contractor *shall*, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the *Contracting Officer* within 30 days a copy of all disclosures. Each subcontractor certification *shall* be retained in the subcontract file of the awarding Contractor.

(3) The Contractor *shall* include the substance of this clause, including this paragraph (g), in any subcontract that exceeds the threshold specified in FAR 3.808 upon the date of subcontract award.

52.204-9

52.204-9 Personal Identity Verification of Contractor Personnel.

As prescribed in [4.1303](#) , insert the following clause:

Personal Identity Verification of Contractor Personnel (Jan 2011)

(a) The Contractor *shall* comply with agency personal identity verification procedures identified in the contract that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and Federal Information Processing Standards Publication (FIPS PUB) Number 201.

(b) The Contractor *shall* account for all forms of Government-provided identification issued to the Contractor employees in connection with performance under this contract. The Contractor *shall* return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by the Government:

- (1) When no longer needed for contract performance.
- (2) Upon completion of the Contractor employee's employment.
- (3) Upon contract completion or termination.

(c) The *Contracting Officer* may delay final payment under a contract if the Contractor fails to comply with these requirements.

(d) The Contractor *shall* insert the substance of this clause, including this paragraph (d), in all subcontracts when the subcontractor's employees are required to have routine physical access to a Federally-controlled facility and/or routine access to a *Federally-controlled information system*. It *shall* be the responsibility of the prime Contractor to return such identification to the issuing agency in accordance with the terms set forth in paragraph (b) of this section, unless otherwise approved *in writing* by the *Contracting Officer*.

52.204-23

52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities.

As prescribed in [4.2004](#) , insert the following clause:

Prohibition on *Contracting* for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other *Covered Entities* (Nov 2021)

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

Covered article means any hardware, software, or service that—

- (1) Is developed or provided by a *covered entity*;
- (2) Includes any hardware, software, or service developed or provided in whole or in part by a *covered entity*; or
- (3) Contains *components* using any hardware or software developed in whole or in part by a *covered entity*.

Covered entity means—

- (1) Kaspersky Lab;

(2) Any successor entity to Kaspersky Lab;

(3) Any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or

(4) Any entity of which Kaspersky Lab has a majority ownership.

(b) *Prohibition.* Section 1634 of Division A of the *National Defense Authorization Act for Fiscal Year 2018* (Pub. L. 115-91) prohibits Government use of any *covered article*. The Contractor is prohibited from—

(1) Providing any *covered article* that the Government will use on or after October 1, 2018; and

(2) Using any *covered article* on or after October 1, 2018, in the development of data or deliverables first produced in the performance of the contract.

(c) *Reporting requirement.*

(1) In the event the Contractor identifies a *covered article* provided to the Government during contract performance, or the Contractor is notified of such by a subcontractor at any tier or any other source, the Contractor *shall* report, *in writing*, to the *Contracting Officer* or, in the case of the Department of Defense, to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor *shall* report to the *Contracting Officer* for the indefinite delivery contract and the *Contracting Officer(s)* for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

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

(i) Within 1 business *day* from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; brand; model number (Original Equipment Manufacturer (OEM) number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the report pursuant to paragraph (c)(1) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor *shall* describe the efforts it undertook to prevent use or submission of a *covered article*, any reasons that led to

the use or submission of the *covered article*, and any additional efforts that will be incorporated to prevent future use or submission of *covered articles*.

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

52.204-25

52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

As prescribed in [4.2105](#)(b), insert the following clause:

Prohibition on *Contracting* for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)

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

Backhaul means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (*e.g.*, connecting cell phones/towers to the core telephone network). Backhaul can be wireless (*e.g.*, microwave) or wired (*e.g.*, fiber optic, coaxial cable, Ethernet).

Covered foreign country means The People's Republic of China.

Covered telecommunications equipment or services means—

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

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a *covered foreign country*.

Critical technology means—

(1) Defense articles or defense services included on the *United States* Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled-

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and *components*, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

Interconnection arrangements means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (*e.g.*, connection of a customer of telephone

provider A to a customer of telephone company B) or sharing data and other information resources.

Reasonable inquiry means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of *covered telecommunications equipment or services* used by the entity that excludes the need to include an internal or third-party audit.

Roaming means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

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

(b) *Prohibition.*

(1) Section 889(a)(1)(A) of the John S. McCain *National Defense Authorization Act for Fiscal Year 2019* (Pub. L. 115-232) prohibits the head of an *executive agency* on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain *National Defense Authorization Act for Fiscal Year 2019* (Pub. L. 115-232) prohibits the head of an *executive agency* on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses *covered telecommunications equipment or services* as a *substantial or essential component* of any system, or as *critical technology* as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of *covered telecommunications equipment or services*, regardless of whether that use is in performance of work under a Federal contract.

(c) *Exceptions.* This clause does not prohibit contractors from providing—

(1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

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

(d) Reporting requirement.

(1) In the event the Contractor identifies *covered telecommunications equipment or services* used as a *substantial or essential component* of any system, or as *critical technology* as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor *shall* report the information in paragraph (d)(2) of this clause to the *Contracting Officer*, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor *shall* report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor *shall* report to the *Contracting Officer* for the indefinite delivery contract and the *Contracting Officer(s)* for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

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

(i) Within one business *day* from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier *unique entity identifier* (if known); supplier *Commercial and Government Entity (CAGE) code* (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.

(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor *shall* describe the efforts it undertook to prevent use or submission of *covered telecommunications equipment or services*, and any additional efforts that will be incorporated to prevent future use or submission of *covered telecommunications equipment or services*.

(e) *Subcontracts*. The Contractor *shall* insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and

other contractual instruments, including subcontracts for the *acquisition of commercial products or commercial services*.

52.222-21

52.222-21 Prohibition of Segregated Facilities.

As prescribed in [22.810](#)(a)(1), insert the following clause:

Prohibition of *Segregated Facilities* (Apr 2015)

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

Gender identity has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Segregated facilities, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

Sexual orientation has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any *segregated facilities* at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where *segregated facilities* are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor *shall* include this clause in every subcontract and *purchase order* that is subject to the Equal Opportunity clause of this contract.

52.222-26

52.222-26 Equal Opportunity.

As prescribed in [22.810](#)(e), insert the following clause:

Equal Opportunity (Sept 2016)

(a) *Definition.* As used in this clause.

Compensation means any payments made to, or on behalf of, an employee or offered to an applicant as remuneration for employment, including but not limited to salary, wages, *overtime* pay, shift differentials, bonuses, commissions, vacation and holiday pay, allowances, *insurance* and other benefits, stock *options* and awards, profit sharing, and retirement.

Compensation information means the amount and type of *compensation* provided to employees or offered to applicants, including, but not limited to, the desire of the Contractor to attract and retain a particular employee for the value the employee is perceived to add to the Contractor's profit or productivity; the availability of employees with like skills in the marketplace; *market research* about the worth of similar jobs in the relevant marketplace; job analysis, descriptions, and evaluations; salary and pay structures; salary surveys; labor union agreements; and Contractor decisions, statements and policies related to setting or altering employee *compensation*.

Essential job functions means the fundamental job duties of the employment position an individual holds. A job function *may* be considered essential if-

(1) The access to *compensation information* is necessary in order to perform that function or another routinely assigned business task; or

(2) The function or duties of the position include protecting and maintaining the privacy of employee personnel records, including *compensation information*.

Gender identity has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

Sexual orientation has the meaning given by the Department of Labor's Office of Federal Contract Compliance Programs, and is found at http://www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

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

(b)

(1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor *shall* comply with this clause, except for work performed outside the *United States* by employees who were not recruited within the *United States*. Upon request, the Contractor *shall* provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c)

(1) The Contractor *shall* not discriminate against any employee or applicant for employment because of race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin. However, it *shall* not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor *shall* take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin. This *shall* include, but not be limited to-

(i) Employment;

- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of *compensation*; and
- (viii) Selection for training, including apprenticeship.

(3) The Contractor *shall* post in conspicuous places available to employees and applicants for employment the notices to be provided by the *Contracting Officer* that explain this clause.

(4) The Contractor *shall*, in all *solicitations* or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, *sexual orientation*, *gender identity*, or national origin.

(5)

(i) The Contractor *shall* not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the *compensation* of the employee or applicant or another employee or applicant. This prohibition against discrimination does not apply to instances in which an employee who has access to the *compensation information* of other employees or applicants as a part of such employee's *essential job functions* discloses the *compensation* of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(ii) The Contractor *shall* disseminate the prohibition on discrimination in paragraph (c)(5)(i) of this clause, using language prescribed by the Director of the Office of Federal Contract Compliance Programs (OFCCP), to employees and applicants by-

(A) Incorporation into existing employee manuals or handbooks; and

(B) Electronic posting or by posting a copy of the provision in conspicuous places available to employees and applicants for employment.

(6) The Contractor *shall* send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the *Contracting Officer* advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(7) The Contractor *shall* comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(8) The Contractor *shall* furnish to the *contracting* agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor *shall* also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR Part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor *shall*, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(9) The Contractor *shall* permit access to its premises, during normal business hours, by the *contracting* agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor *shall* permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that *may* be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(10) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract *may* be canceled, terminated, or suspended in whole or in part and the Contractor *may* be declared *ineligible* for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions *may* be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(11) The Contractor *shall* include the terms and conditions of this clause in every subcontract or *purchase order* that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(12) The Contractor *shall* take such action with respect to any subcontract or *purchase order* as the Director of OFCCP *may* direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor *may* request the *United States* to enter into the litigation to protect the interests of the *United States*.

(d) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.

52.222-50

52.222-50 Combating Trafficking in Persons.

As prescribed in [22.1705](#)(a)(1), insert the following clause:

Combating Trafficking in Persons (Nov 2021)

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

Agent means any individual, including a director, an officer, an *employee*, or an independent contractor, authorized to act on behalf of the organization.

Coercion means-

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

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

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

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

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

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

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

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

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

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

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

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

Forced Labor means knowingly providing or obtaining the labor or services of a person-

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

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

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

Involuntary servitude includes a condition of servitude induced by means of-

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

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

Recruitment fees means fees of any type, including charges, costs, assessments, or other financial obligations, that are associated with the recruiting process, regardless of the time, manner, or location of imposition or collection of the fee.

(1) *Recruitment fees* include, but are not limited to, the following fees (when they are associated with the recruiting process) for-

(i) Soliciting, identifying, considering, interviewing, referring, retaining, transferring, selecting, training, providing orientation to, skills testing, recommending, or placing *employees* or potential *employees*;

(ii) Advertising

(iii) Obtaining permanent or temporary labor certification, including any associated fees;

(iv) Processing applications and petitions;

(v) Acquiring visas, including any associated fees;

(vi) Acquiring photographs and identity or immigration documents, such as passports, including any associated fees;

(vii) Accessing the job opportunity, including required medical examinations and immunizations; background, reference, and security clearance checks and examinations; and additional certifications;

(viii) An employer's recruiters, *agents* or attorneys, or other notary or legal fees;

(ix) Language interpretation or translation, arranging for or accompanying on travel, or providing other advice to *employees* or potential *employees*;

(x) Government-mandated fees, such as border crossing fees, levies, or worker welfare funds;

(xi) Transportation and subsistence costs-

(A) While in transit, including, but not limited to, airfare or costs of other modes of transportation, terminal fees, and travel taxes associated with travel from the

country of origin to the country of performance and the return journey upon the end of employment; and

(B) From the airport or disembarkation point to the worksite;

(xii) Security deposits, bonds, and *insurance*; and

(xiii) Equipment charges.

(2) A recruitment fee, as described in the introductory text of this definition, is a recruitment fee, regardless of whether the payment is-

(i) Paid in property or money;

(ii) Deducted from wages;

(iii) Paid back in wage or benefit concessions;

(iv) Paid back as a kickback, bribe, in-kind payment, free labor, tip, or tribute; or

(v) Collected by an employer or a third party, whether licensed or unlicensed, including, but not limited to-

(A) *Agents*;

(B) Labor brokers;

(C) Recruiters;

(D) Staffing firms (including private employment and placement firms);

(E) Subsidiaries/*affiliates* of the employer;

(F) Any *agent* or *employee* of such entities; and

(G) *Subcontractors* at all tiers.

Severe forms of trafficking in persons means-

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

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

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

Subcontract means any contract entered into by a *subcontractor* to furnish *supplies* or services for performance of a prime contract or a *subcontract*.

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

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

(b) *Policy*. The *United States* Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor *employees*, and their *agents* shall not-

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

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

(3) Use *forced labor* in the performance of the contract;

(4) Destroy, conceal, confiscate, or otherwise deny access by an *employee* to the *employee's* identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5)

(i) Use misleading or fraudulent practices during the recruitment of *employees* or offering of employment, such as failing to disclose, in a format and language understood by the *employee* or potential *employee*, basic information or making material misrepresentations during the recruitment of *employees* regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or *agent* provided or arranged), any significant costs to be charged to the *employee* or potential *employee*, and, if applicable, the hazardous nature of the work;

(ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charge *employees* or potential *employees recruitment fees*;

(7)

(i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment-

(A) For an *employee* who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or *subcontract* (for portions of contracts performed outside the *United States*); or

(B) For an *employee* who is not a *United States* national and who was brought into the *United States* for the purpose of working on a U.S. Government contract or *subcontract*, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the *employee* (for portions of contracts performed inside the *United States*); except that-

(ii) The requirements of paragraphs (b)(7)(i) of this clause *shall* not apply to an *employee* who is-

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the *contracting* agency from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The contractor *shall* provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor *shall* not only *offer* return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document *in writing*. Such written work document *shall* be in a language the *employee* understands. If the *employee must* relocate to perform the work, the work document *shall* be provided to the *employee* at least five days prior to the *employee* relocating. The *employee's* work document *shall* include, but is not limited to, details about work description, wages, prohibition on charging *recruitment fees*, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

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

(1) Notify its *employees* and *agents* of-

(i) The *United States* Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

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

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

(d) *Notification*.

(1) The Contractor *shall* inform the *Contracting Officer* and the agency Inspector General immediately of-

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Contractor *employee, subcontractor, subcontractor employee, or their agent* has engaged in conduct that violates the policy in paragraph (b) of this clause (see also [18 U.S.C. 1351](#), Fraud in Foreign Labor Contracting, and [52.203-13\(b\)\(3\)\(i\)\(A\)](#), if that clause is included in the *solicitation* or contract, which requires disclosure to the agency Office of the Inspector General when the Contractor has credible evidence of fraud); and

(ii) Any actions taken against a Contractor *employee, subcontractor, subcontractor employee*, or their *agent* pursuant to this clause.

(2) If the allegation *may* be associated with more than one contract, the Contractor *shall* inform the *contracting officer* for the contract with the highest dollar value.

(e) *Remedies*. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause *may* result in-

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

(2) Requiring the Contractor to terminate a *subcontract*;

(3) *Suspension* of contract payments until the Contractor has taken appropriate remedial action;

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

(5) Declining to exercise available *options* under the contract;

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

(7) *Suspension* or *debarment*.

(f) *Mitigating and aggravating factors*. When determining remedies, the *Contracting Officer* *may* consider the following:

(1) *Mitigating factors*. The Contractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that *may* include reparation to victims for such violations.

(2) *Aggravating factors*. The Contractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the *Contracting Officer* to do so.

(g) *Full cooperation*.

(1) The Contractor *shall*, at a minimum-

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow *contracting* agencies and other responsible *Federal agencies* to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 ([22 U.S.C. chapter 78](#)), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the *procurement of commercial sex acts*, or the use of *forced labor*; and

(iv) Protect all *employees* suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the *employee* was recruited, and *shall* not prevent or hinder the ability of these *employees* from cooperating fully with Government authorities.

(2) The requirement for full cooperation does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not-

(i) Require the Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, *employee*, or *agent* of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or

(iii) Restrict the Contractor from-

(A) Conducting an internal investigation; or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan*.

(1) This paragraph (h) applies to any portion of the contract that-

(i) Is for *supplies*, other than commercially available off-the-shelf items, acquired outside the *United States*, or services to be performed outside the *United States*; and

(ii) Has an estimated value that exceeds \$550,000.

(2) The Contractor *shall* maintain a compliance plan during the performance of the contract that is appropriate-

(i) To the size and complexity of the contract; and

(ii) To the nature and scope of the activities to be performed for the Government, including the number of non-*United States* citizens expected to be employed and the risk that the contract or *subcontract* will involve services or *supplies* susceptible to trafficking in persons.

(3) *Minimum requirements*. The compliance plan *must* include, at a minimum, the following:

(i) An awareness program to inform contractor *employees* about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the *employee* for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.

(ii) A process for *employees* to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all *employees* the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at help@befree.org.

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained *employees*, prohibits charging *recruitment fees* to the *employees* or potential *employees* and ensures that wages meet applicable host-country legal requirements or explains any variance.

(iv) A housing plan, if the Contractor or *subcontractor* intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent *agents* and *subcontractors* at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any *agents*, *subcontracts*, or *subcontractor employees* that have engaged in such activities.

(4) *Posting.*

(i) The Contractor *shall* post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Contractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Contractor *shall* provide the relevant contents of the compliance plan to each worker *in writing*.

(ii) The Contractor *shall* provide the compliance plan to the *Contracting Officer* upon request.

(5) *Certification.* Annually after receiving an award, the Contractor *shall* submit a certification to the *Contracting Officer* that-

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any *agent*, *subcontract* or *subcontractor employee* engaging in prohibited activities; and

(ii) After having conducted due diligence, either-

(A) To the best of the Contractor's knowledge and belief, neither it nor any of its *agents*, *subcontractors*, or their *agents* is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Contractor or *subcontractor* has taken the appropriate remedial and referral actions.

(i) *Subcontracts.*

(1) The Contractor *shall* include the substance of this clause, including this paragraph (i), in all *subcontracts* and in all contracts with *agents*. The requirements in paragraph (h) of this clause apply only to any portion of the *subcontract* that-

(i) Is for *supplies*, other than commercially available off-the-shelf items, acquired outside the *United States*, or services to be performed outside the *United States*; and

(ii) Has an estimated value that exceeds \$550,000.

(2) If any *subcontractor* is required by this clause to submit a certification, the Contractor *shall* require submission prior to the award of the *subcontract* and annually thereafter. The certification *shall* cover the items in paragraph (h)(5) of this clause.

52.223-18

52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving.

As prescribed in [23.1105](#) , insert the following clause:

Encouraging Contractor Policies to Ban *Text Messaging* While Driving (Jun 2020)

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

"Driving"–

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

Text messaging means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing *Text Messaging* While Driving, dated October 1, 2009.

(c) The Contractor is encouraged to-

(1) Adopt and enforce policies that ban *text messaging* while driving-

- (i) Company-owned or rented vehicles or Government-owned vehicles; or
- (ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

(2) Conduct initiatives in a manner commensurate with the size of the business, such as-

- (i) Establishment of new rules and programs or reevaluation of existing programs to prohibit *text messaging* while driving; and
- (ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(d) *Subcontracts*. The Contractor *shall* insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the *micro-purchase threshold*, as defined in Federal Acquisition Regulation [2.101](#) on the date of subcontract award.

52.244-6

52.244-6 Subcontracts for Commercial Products and Commercial Services.

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

Subcontracts for Commercial Products and Commercial Services (Oct 2022)

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

Commercial product, commercial service and commercially available off-the-shelf item have the meanings contained in Federal Acquisition Regulation (FAR) [2.101](#).

Subcontract includes a transfer of *commercial products* or *commercial services* between divisions, subsidiaries, or *affiliates* of the Contractor or subcontractor at any tier.

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

(c)

(1) The Contractor *shall* insert the following clauses in *subcontracts* for *commercial products* or *commercial services*:

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) ([41 U.S.C. 3509](#)), if the *subcontract* exceeds the threshold specified in FAR [3.1004](#)(a) on the date of *subcontract* award, and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False *Claims* Act or of Federal criminal law *shall* be directed to the agency Office of the Inspector General, with a copy to the *Contracting Officer*.

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

(iii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017).

(iv) [52.204-21](#), Basic Safeguarding of Covered Contractor Information Systems (Nov 2021) , other than *subcontracts* for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause [52.204-21](#).

(v) [52.204-23](#), Prohibition on *Contracting* for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

(vi) [52.204-25](#), Prohibition on *Contracting* for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(vii) [52.219-8](#), Utilization of Small Business Concerns (Oct 2022) ([15 U.S.C.637](#)(d)(2) and (3)), if the *subcontract offers* further subcontracting opportunities. If the *subcontract* (except *subcontracts* to small business concerns) exceeds the applicable threshold specified in FAR [19.702](#)(a) on the date of *subcontract* award, the subcontractor *must* include [52.219-8](#) in lower tier *subcontracts* that *offer* subcontracting opportunities.

(viii) [52.222-21](#), *Prohibition of Segregated Facilities* (Apr 2015).

(ix) [52.222-26](#), Equal Opportunity (*Sept* 2016) (E.O.11246).

(x) [52.222-35](#), Equal Opportunity for Veterans (Jun 2020) ([38 U.S.C.4212\(a\)](#));

(xi) [52.222-36](#), Equal Opportunity for Workers with Disabilities (Jun 2020)([29 U.S.C.793](#)).

(xii) [52.222-37](#), Employment Reports on Veterans (Jun 2020) ([38 U.S.C.4212](#)).

(xiii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.

(xiv)

(A) [52.222-50](#), Combating Trafficking in Persons (Nov 2021) ([22 U.S.C. chapter 78](#) and E.O. 13627).

(B) *Alternate I* (Mar 2015) of [52.222-50](#)([22 U.S.C. chapter 78](#) and E.O. 13627).

(xv) [52.222-55](#), Minimum Wages for Contractor Workers under Executive Order 14026 (Jan 2022), if flow down is required in accordance with paragraph (k) of FAR clause [52.222-55](#).

(xvi) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause [52.222-62](#).

(xvii)

(A) [52.224-3](#), Privacy Training (Jan 2017) ([5 U.S.C. 552a](#)) if flow down is required in accordance with [52.224-3\(f\)](#).

(B) *Alternate I* (Jan 2017) of [52.224-3](#), if flow down is required in accordance with [52.224-3\(f\)](#) and the agency specifies that only its agency-provided training is acceptable).

(xviii) [52.225-26](#), Contractors Performing Private Security Functions Outside the *United States* (Oct 2016) (Section 862, as amended, of the *National Defense Authorization Act for Fiscal Year 2008*; [10 U.S.C. 2302 Note](#)).

(xix) [52.232-40](#), Providing Accelerated Payments to *Small Business Subcontractors* (Nov 2021) , if flow down is required in accordance with paragraph (c) of FAR clause [52.232-40](#).

(xx) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ([46 U.S.C. 55305](#) and [10 U.S.C.2631](#)), if flow down is required in accordance with paragraph (d) of FAR clause [52.247-64](#)).

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

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

252.203-7002

252.203-7002 Requirement to Inform Employees of Whistleblower Rights.

As prescribed in [203.970](#) , use the following clause:

REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEP 2013)

(a) The Contractor shall inform its employees in writing, in the predominant native language of the workforce, of contractor employee whistleblower rights and

protections under 10 U.S.C. 2409, as described in subpart 203.9 of the Defense Federal Acquisition Regulation Supplement.

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

252.204-7012

252.204-7012 Safeguarding Covered Defense Information and Cyber Incident Reporting.

As prescribed in [204.7304](#) (c), use the following clause:

SAFEGUARDING COVERED DEFENSE INFORMATION AND CYBER INCIDENT REPORTING (DEC 2019)

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

“Adequate security” means protective measures that are commensurate with the consequences and probability of loss, misuse, or unauthorized access to, or modification of information.

“Compromise” means disclosure of information to unauthorized persons, or a violation of the security policy of a system, in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object, or the copying of information to unauthorized media may have occurred.

“Contractor attributional/proprietary information” means information that identifies the contractor(s), whether directly or indirectly, by the grouping of information that can be traced back to the contractor(s) (e.g., program description, facility locations), personally identifiable information, as well as trade secrets, commercial or financial information, or other commercially sensitive information that is not customarily shared outside of the company.

“Controlled technical information” means technical information with military or space application that is subject to controls on the access, use, reproduction, modification, performance, display, release, disclosure, or dissemination. Controlled technical information would meet the criteria, if disseminated, for distribution statements B

through F using the criteria set forth in DoD Instruction 5230.24, Distribution Statements on Technical Documents. The term does not include information that is lawfully publicly available without restrictions.

“Covered contractor information system” means an unclassified information system that is owned, or operated by or for, a contractor and that processes, stores, or transmits covered defense information.

“Covered defense information” means unclassified controlled technical information or other information, as described in the Controlled Unclassified Information (CUI) Registry at <http://www.archives.gov/cui/registry/category-list.html>, that requires safeguarding or dissemination controls pursuant to and consistent with law, regulations, and Governmentwide policies, and is—

(1) Marked or otherwise identified in the contract, task order, or delivery order and provided to the contractor by or on behalf of DoD in support of the performance of the contract; or

(2) Collected, developed, received, transmitted, used, or stored by or on behalf of the contractor in support of the performance of the contract.

“Cyber incident” means actions taken through the use of computer networks that result in a compromise or an actual or potentially adverse effect on an information system and/or the information residing therein.

“Forensic analysis” means the practice of gathering, retaining, and analyzing computer-related data for investigative purposes in a manner that maintains the integrity of the data.

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

“Malicious software” means computer software or firmware intended to perform an unauthorized process that will have adverse impact on the confidentiality, integrity, or availability of an information system. This definition includes a virus, worm, Trojan horse, or other code-based entity that infects a host, as well as spyware and some forms of adware.

“Media” means physical devices or writing surfaces including, but is not limited to, magnetic tapes, optical disks, magnetic disks, large-scale integration memory chips,

and printouts onto which covered defense information is recorded, stored, or printed within a covered contractor information system.

“Operationally critical support” means supplies or services designated by the Government as critical for airlift, sealift, intermodal transportation services, or logistical support that is essential to the mobilization, deployment, or sustainment of the Armed Forces in a contingency operation.

“Rapidly report” means within 72 hours of discovery of any cyber incident.

“Technical information” means technical data or computer software, as those terms are defined in the clause at DFARS [252.227-7013](#) , Rights in Technical Data—

Noncommercial Items, regardless of whether or not the clause is incorporated in this solicitation or contract. Examples of technical information include research and engineering data, engineering drawings, and associated lists, specifications, standards, process sheets, manuals, technical reports, technical orders, catalog-item identifications, data sets, studies and analyses and related information, and computer software executable code and source code.

(b) *Adequate security.* The Contractor shall provide adequate security on all covered contractor information systems. To provide adequate security, the Contractor shall implement, at a minimum, the following information security protections:

(1) For covered contractor information systems that are part of an Information Technology (IT) service or system operated on behalf of the Government, the following security requirements apply:

(i) Cloud computing services shall be subject to the security requirements specified in the clause [252.239-7010](#) , Cloud Computing Services, of this contract.

(ii) Any other such IT service or system (i.e., other than cloud computing) shall be subject to the security requirements specified elsewhere in this contract.

(2) For covered contractor information systems that are not part of an IT service or system operated on behalf of the Government and therefore are not subject to the security requirement specified at paragraph (b)(1) of this clause, the following security requirements apply:

(i) Except as provided in paragraph (b)(2)(ii) of this clause, the covered contractor information system shall be subject to the security requirements in National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, “Protecting

Controlled Unclassified Information in Nonfederal Information Systems and Organizations” (available via the internet at <http://dx.doi.org/10.6028/NIST.SP.800-171>) in effect at the time the solicitation is issued or as authorized by the Contracting Officer.

(ii)(A) The Contractor shall implement NIST SP 800-171, as soon as practical, but not later than December 31, 2017. For all contracts awarded prior to October 1, 2017, the Contractor shall notify the DoD Chief Information Officer (CIO), via email at osd.dibcsia@mail.mil, within 30 days of contract award, of any security requirements specified by NIST SP 800-171 not implemented at the time of contract award.

(B) The Contractor shall submit requests to vary from NIST SP 800-171 in writing to the Contracting Officer, for consideration by the DoD CIO. The Contractor need not implement any security requirement adjudicated by an authorized representative of the DoD CIO to be nonapplicable or to have an alternative, but equally effective, security measure that may be implemented in its place.

(C) If the DoD CIO has previously adjudicated the contractor’s requests indicating that a requirement is not applicable or that an alternative security measure is equally effective, a copy of that approval shall be provided to the Contracting Officer when requesting its recognition under this contract.

(D) If the Contractor intends to use an external cloud service provider to store, process, or transmit any covered defense information in performance of this contract, the Contractor shall require and ensure that the cloud service provider meets security requirements equivalent to those established by the Government for the Federal Risk and Authorization Management Program (FedRAMP) Moderate baseline (<https://www.fedramp.gov/resources/documents/>) and that the cloud service provider complies with requirements in paragraphs (c) through (g) of this clause for cyber incident reporting, malicious software, media preservation and protection, access to additional information and equipment necessary for forensic analysis, and cyber incident damage assessment.

(3) Apply other information systems security measures when the Contractor reasonably determines that information systems security measures, in addition to those identified in paragraphs (b)(1) and (2) of this clause, may be required to provide adequate security in a dynamic environment or to accommodate special circumstances (e.g., medical devices) and any individual, isolated, or temporary deficiencies based on an assessed risk or vulnerability. These measures may be addressed in a system security plan.

(c) *Cyber incident reporting requirement.*

(1) When the Contractor discovers a cyber incident that affects a covered contractor information system or the covered defense information residing therein, or that affects the contractor's ability to perform the requirements of the contract that are designated as operationally critical support and identified in the contract, the Contractor shall—

(i) Conduct a review for evidence of compromise of covered defense information, including, but not limited to, identifying compromised computers, servers, specific data, and user accounts. This review shall also include analyzing covered contractor information system(s) that were part of the cyber incident, as well as other information systems on the Contractor's network(s), that may have been accessed as a result of the incident in order to identify compromised covered defense information, or that affect the Contractor's ability to provide operationally critical support; and

(ii) Rapidly report cyber incidents to DoD at <https://dibnet.dod.mil>.

(2) *Cyber incident report.* The cyber incident report shall be treated as information created by or for DoD and shall include, at a minimum, the required elements at <https://dibnet.dod.mil>.

(3) *Medium assurance certificate requirement.* In order to report cyber incidents in accordance with this clause, the Contractor or subcontractor shall have or acquire a DoD-approved medium assurance certificate to report cyber incidents. For information on obtaining a DoD-approved medium assurance certificate, see <https://public.cyber.mil/eca/>.

(d) *Malicious software.* When the Contractor or subcontractors discover and isolate malicious software in connection with a reported cyber incident, submit the malicious software to DoD Cyber Crime Center (DC3) in accordance with instructions provided by DC3 or the Contracting Officer. Do not send the malicious software to the Contracting Officer.

(e) *Media preservation and protection.* When a Contractor discovers a cyber incident has occurred, the Contractor shall preserve and protect images of all known affected information systems identified in paragraph (c)(1)(i) of this clause and all relevant monitoring/packet capture data for at least 90 days from the submission of the cyber incident report to allow DoD to request the media or decline interest.

(f) *Access to additional information or equipment necessary for forensic analysis.* Upon request by DoD, the Contractor shall provide DoD with access to additional information or equipment that is necessary to conduct a forensic analysis.

(g) *Cyber incident damage assessment activities.* If DoD elects to conduct a damage assessment, the Contracting Officer will request that the Contractor provide all of the damage assessment information gathered in accordance with paragraph (e) of this clause.

(h) *DoD safeguarding and use of contractor attributional/proprietary information.* The Government shall protect against the unauthorized use or release of information obtained from the contractor (or derived from information obtained from the contractor) under this clause that includes contractor attributional/proprietary information, including such information submitted in accordance with paragraph (c). To the maximum extent practicable, the Contractor shall identify and mark attributional/proprietary information. In making an authorized release of such information, the Government will implement appropriate procedures to minimize the contractor attributional/proprietary information that is included in such authorized release, seeking to include only that information that is necessary for the authorized purpose(s) for which the information is being released.

(i) *Use and release of contractor attributional/proprietary information not created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is not created by or for DoD is authorized to be released outside of DoD—

(1) To entities with missions that may be affected by such information;

(2) To entities that may be called upon to assist in the diagnosis, detection, or mitigation of cyber incidents;

(3) To Government entities that conduct counterintelligence or law enforcement investigations;

(4) For national security purposes, including cyber situational awareness and defense purposes (including with Defense Industrial Base (DIB) participants in the program at 32 CFR part 236); or

(5) To a support services contractor (“recipient”) that is directly supporting Government activities under a contract that includes the clause at [252.204-7009](#), Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information.

(j) *Use and release of contractor attributional/proprietary information created by or for DoD.* Information that is obtained from the contractor (or derived from information obtained from the contractor) under this clause that is created by or for

DoD (including the information submitted pursuant to paragraph (c) of this clause) is authorized to be used and released outside of DoD for purposes and activities authorized by paragraph (i) of this clause, and for any other lawful Government purpose or activity, subject to all applicable statutory, regulatory, and policy based restrictions on the Government's use and release of such information.

(k) The Contractor shall conduct activities under this clause in accordance with applicable laws and regulations on the interception, monitoring, access, use, and disclosure of electronic communications and data.

(l) *Other safeguarding or reporting requirements.* The safeguarding and cyber incident reporting required by this clause in no way abrogates the Contractor's responsibility for other safeguarding or cyber incident reporting pertaining to its unclassified information systems as required by other applicable clauses of this contract, or as a result of other applicable U.S. Government statutory or regulatory requirements.

(m) *Subcontracts.* The Contractor shall—

(1) Include this clause, including this paragraph (m), in subcontracts, or similar contractual instruments, for operationally critical support, or for which subcontract performance will involve covered defense information, including subcontracts for commercial items, without alteration, except to identify the parties. The Contractor shall determine if the information required for subcontractor performance retains its identity as covered defense information and will require protection under this clause, and, if necessary, consult with the Contracting Officer; and

(2) Require subcontractors to—

(i) Notify the prime Contractor (or next higher-tier subcontractor) when submitting a request to vary from a NIST SP 800-171 security requirement to the Contracting Officer, in accordance with paragraph (b)(2)(ii)(B) of this clause; and

(ii) Provide the incident report number, automatically assigned by DoD, to the prime Contractor (or next higher-tier subcontractor) as soon as practicable, when reporting a cyber incident to DoD as required in paragraph (c) of this clause.

252.204-7015 Notice of Authorized Disclosure of Information for Litigation Support.

As prescribed in [204.7403](#) (b), use the following clause:

NOTICE OF AUTHORIZED DISCLOSURE OF INFORMATION FOR LITIGATION SUPPORT (MAY 2016)

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

“Computer software” means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.

“Litigation support” means administrative, technical, or professional services provided in support of the Government during or in anticipation of litigation.

"Litigation support contractor" means a contractor (including its experts, technical consultants, subcontractors, and suppliers) providing litigation support under a contract that contains the clause at [252.204-7014](#) , Limitations on the Use or Disclosure of Information by Litigation Support Contractors.

“Sensitive information” means controlled unclassified information of a commercial, financial, proprietary, or privileged nature. The term includes technical data and computer software, but does not include information that is lawfully, publicly available without restriction.

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

(b) *Notice of authorized disclosures.* Notwithstanding any other provision of this solicitation or contract, the Government may disclose to a litigation support contractor, for the sole purpose of litigation support activities, any information, including sensitive information, received—

(1) Within or in connection with a quotation or offer; or

(2) In the performance of or in connection with a contract.

(c) *Flowdown*. Include the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for commercial items.

252.204-7018

252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services.

As prescribed in [204.2105](#) (c), use the following clause:

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

Definitions. As used in this clause—

“Covered defense telecommunications equipment or services” means—

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

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

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

“Covered foreign country” means—

(1) The People’s Republic of China; or

(2) The Russian Federation.

“Covered missions” means—

(1) The nuclear deterrence mission of DoD, including with respect to nuclear command, control, and communications, integrated tactical warning and attack assessment, and continuity of Government; or

(2) The homeland defense mission of DoD, including with respect to ballistic missile defense.

“Critical technology” means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

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

(b) *Prohibition.* In accordance with section 1656 of the National Defense Authorization Act for Fiscal Year 2018 (Pub. L. 115-91), the contractor shall not

provide to the Government any equipment, system, or service to carry out covered missions that uses covered defense telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless the covered defense telecommunication equipment or services are covered by a waiver described in Defense Federal Acquisition Regulation Supplement [204.2104](#) .

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

(d) *Reporting.*

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

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

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

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

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

252.204-7020 NIST SP 800-171DoD Assessment Requirements.

As prescribed in [204.7304](#) (e), use the following clause:

NIST SP 800-171 DOD ASSESSMENT REQUIREMENTS (MAR 2022)

(a) *Definitions.*

Basic Assessment” means a contractor’s self-assessment of the contractor’s implementation of NIST SP 800-171 that—

- (1) Is based on the Contractor’s review of their system security plan(s) associated with covered contractor information system(s);
- (2) Is conducted in accordance with the NIST SP 800-171 DoD Assessment Methodology; and
- (3) Results in a confidence level of “Low” in the resulting score, because it is a self-generated score.

“Covered contractor information system” has the meaning given in the clause 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, of this contract.

“High Assessment” means an assessment that is conducted by Government personnel using NIST SP 800-171A, Assessing Security Requirements for Controlled Unclassified Information that—

(1) Consists of—

- (i) A review of a contractor’s Basic Assessment;
- (ii) A thorough document review;
- (iii) Verification, examination, and demonstration of a Contractor’s system security plan to validate that NIST SP 800-171 security requirements have been implemented as described in the contractor’s system security plan; and

(iv) Discussions with the contractor to obtain additional information or clarification, as needed; and

(2) Results in a confidence level of “High” in the resulting score.

“Medium Assessment” means an assessment conducted by the Government that—

(1) Consists of—

(i) A review of a contractor’s Basic Assessment;

(ii) A thorough document review; and

(iii) Discussions with the contractor to obtain additional information or clarification, as needed; and

(2) Results in a confidence level of “Medium” in the resulting score.

(b) *Applicability*. This clause applies to covered contractor information systems that are required to comply with the National Institute of Standards and Technology (NIST) Special Publication (SP) 800-171, in accordance with Defense Federal Acquisition Regulation System (DFARS) clause at 252.204-7012, Safeguarding Covered Defense Information and Cyber Incident Reporting, of this contract.

(c) *Requirements*. The Contractor shall provide access to its facilities, systems, and personnel necessary for the Government to conduct a Medium or High NIST SP 800-171 DoD Assessment, as described in NIST SP 800-171 DoD Assessment Methodology at <https://www.acq.osd.mil/asda/dpc/cp/cyber/safeguarding.html#nistSP800171> , if necessary.

(d) *Procedures*. Summary level scores for all assessments will be posted in the Supplier Performance Risk System (SPRS) () to provide DoD Components visibility into the summary level scores of strategic assessments.

(1) *Basic Assessments*. A contractor may submit, via encrypted email, summary level scores of Basic Assessments conducted in accordance with the NIST SP 800-171 DoD Assessment Methodology to for posting to SPRS.

(i) The email shall include the following information:

(A) Version of NIST SP 800-171 against which the assessment was conducted.

(B) Organization conducting the assessment (e.g., Contractor self-assessment).

(C) For each system security plan (security requirement 3.12.4) supporting the performance of a DoD contract—

(1) All industry Commercial and Government Entity (CAGE) code(s) associated with the information system(s) addressed by the system security plan; and

(2) A brief description of the system security plan architecture, if more than one plan exists.

(D) Date the assessment was completed.

(E) Summary level score (e.g., 95 out of 110, NOT the individual value for each requirement).

(F) Date that all requirements are expected to be implemented (i.e., a score of 110 is expected to be achieved) based on information gathered from associated plan(s) of action developed in accordance with NIST SP 800-171.

(ii) If multiple system security plans are addressed in the email described at paragraph (b)(1)(i) of this section, the Contractor shall use the following format for the report:

System Security Plan	CAGE Codes supported by this plan	Brief description of the plan architecture	Date of assessment	Total Score	Date score of 110 will be achieved
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(2) Medium and High Assessments. DoD will post the following Medium and/or High Assessment summary level scores to SPRS for each system security plan assessed:

(i) The standard assessed (e.g., NIST SP 800-171 Rev 1).

(ii) Organization conducting the assessment, e.g., DCMA, or a specific organization (identified by Department of Defense Activity Address Code (DoDAAC)).

(iii) All industry CAGE code(s) associated with the information system(s) addressed by the system security plan.

(iv) A brief description of the system security plan architecture, if more than one system security plan exists.

(v) Date and level of the assessment, i.e., medium or high.

(vi) Summary level score (e.g., 105 out of 110, not the individual value assigned for each requirement).

(vii) Date that all requirements are expected to be implemented (i.e., a score of 110 is expected to be achieved) based on information gathered from associated plan(s) of action developed in accordance with NIST SP 800-171.

(e) *Rebuttals.*

(1) DoD will provide Medium and High Assessment summary level scores to the Contractor and offer the opportunity for rebuttal and adjudication of assessment summary level scores prior to posting the summary level scores to SPRS (see SPRS User's Guide https://www.sprs.csd.disa.mil/pdf/SPRS_Awardee.pdf).

(2) Upon completion of each assessment, the contractor has 14 business days to provide additional information to demonstrate that they meet any security requirements not observed by the assessment team or to rebut the findings that may be of question.

(f) *Accessibility.*

(1) Assessment summary level scores posted in SPRS are available to DoD personnel, and are protected, in accordance with the standards set forth in DoD Instruction 5000.79, Defense-wide Sharing and Use of Supplier and Product Performance Information (PI).

(2) Authorized representatives of the Contractor for which the assessment was conducted may access SPRS to view their own summary level scores, in accordance with the SPRS Software User's Guide for Awardees/Contractors available at .

(3) A High NIST SP 800-171 DoD Assessment may result in documentation in addition to that listed in this clause. DoD will retain and protect any such documentation as "Controlled Unclassified Information (CUI)" and intended for internal DoD use only. The information will be protected against unauthorized use and release, including through the exercise of applicable exemptions under the Freedom of Information Act (e.g., Exemption 4 covers trade secrets and commercial or financial information obtained from a contractor that is privileged or confidential).

(g) *Subcontracts.*

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

(2) The Contractor shall not award a subcontract or other contractual instrument, that is subject to the implementation of NIST SP 800-171 security requirements, in accordance with DFARS clause 252.204-7012 of this contract, unless the subcontractor has completed, within the last 3 years, at least a Basic NIST SP 800-171 DoD Assessment, as described in <https://www.acq.osd.mil/asda/dpc/cp/cyber/safeguarding.html#nistSP800171> , for all covered contractor information systems relevant to its offer that are not part of an information technology service or system operated on behalf of the Government.

(3) If a subcontractor does not have summary level scores of a current NIST SP 800-171 DoD Assessment (i.e., not more than 3 years old unless a lesser time is specified in the solicitation) posted in SPRS, the subcontractor may conduct and submit a Basic Assessment, in accordance with the NIST SP 800-171 DoD Assessment Methodology, to <mailto:webptsmh@navy.mil> for posting to SPRS along with the information required by paragraph (d) of this clause.

252.211-7003

252.211-7003 Item Unique Identification and Valuation.

As prescribed in [211.274-6](#) (a)(1), use the following clause:

ITEM UNIQUE IDENTIFICATION AND VALUATION (MAR 2022)

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

“Automatic identification device” means a device, such as a reader or interrogator, used to retrieve data encoded on machine-readable media.

“Concatenated unique item identifier” means—

(1) For items that are serialized within the enterprise identifier, the linking together of the unique identifier data elements in order of the issuing agency code, enterprise identifier, and unique serial number within the enterprise identifier; or

(2) For items that are serialized within the original part, lot, or batch number, the linking together of the unique identifier data elements in order of the issuing agency code; enterprise identifier; original part, lot, or batch number; and serial number within the original part, lot, or batch number.

“Data matrix” means a two-dimensional matrix symbology, which is made up of square or, in some cases, round modules arranged within a perimeter finder pattern and uses the Error Checking and Correction 200 (ECC200) specification found within International Standards Organization (ISO)/International Electrotechnical Commission (IEC) 16022.

“Data qualifier” means a specified character (or string of characters) that immediately precedes a data field that defines the general category or intended use of the data that follows.

“DoD recognized unique identification equivalent” means a unique identification method that is in commercial use and has been recognized by DoD. All DoD recognized unique identification equivalents are listed at <https://www.acq.osd.mil/asda/dpc/ce/ds/unique-id.html> .

“DoD item unique identification” means a system of marking items delivered to DoD with unique item identifiers that have machine-readable data elements to distinguish an item from all other like and unlike items. For items that are serialized within the enterprise identifier, the unique item identifier shall include the data elements of the enterprise identifier and a unique serial number. For items that are serialized within the part, lot, or batch number within the enterprise identifier, the unique item identifier shall include the data elements of the enterprise identifier; the original part, lot, or batch number; and the serial number.

“Enterprise” means the entity (e.g., a manufacturer or vendor) responsible for assigning unique item identifiers to items.

“Enterprise identifier” means a code that is uniquely assigned to an enterprise by an issuing agency.

“Government’s unit acquisition cost” means—

(1) For fixed-price type line, subline, or exhibit line items, the unit price identified in the contract at the time of delivery;

(2) For cost-type or undefinitized line, subline, or exhibit line items, the Contractor’s estimated fully burdened unit cost to the Government at the time of delivery; and

(3) For items produced under a time-and-materials contract, the Contractor's estimated fully burdened unit cost to the Government at the time of delivery.

"Issuing agency" means an organization responsible for assigning a globally unique identifier to an enterprise, as indicated in the Register of Issuing Agency Codes for ISO/IEC 15459, located at http://www.aimglobal.org/?Reg_Authority15459.

"Issuing agency code" means a code that designates the registration (or controlling) authority for the enterprise identifier.

"Item" means a single hardware article or a single unit formed by a grouping of subassemblies, components, or constituent parts.

"Lot or batch number" means an identifying number assigned by the enterprise to a designated group of items, usually referred to as either a lot or a batch, all of which were manufactured under identical conditions.

"Machine-readable" means an automatic identification technology media, such as bar codes, contact memory buttons, radio frequency identification, or optical memory cards.

"Original part number" means a combination of numbers or letters assigned by the enterprise at item creation to a class of items with the same form, fit, function, and interface.

"Parent item" means the item assembly, intermediate component, or subassembly that has an embedded item with a unique item identifier or DoD recognized unique identification equivalent.

"Serial number within the enterprise identifier" means a combination of numbers, letters, or symbols assigned by the enterprise to an item that provides for the differentiation of that item from any other like and unlike item and is never used again within the enterprise.

"Serial number within the part, lot, or batch number" means a combination of numbers or letters assigned by the enterprise to an item that provides for the differentiation of that item from any other like item within a part, lot, or batch number assignment.

"Serialization within the enterprise identifier" means each item produced is assigned a serial number that is unique among all the tangible items produced by the enterprise

and is never used again. The enterprise is responsible for ensuring unique serialization within the enterprise identifier.

“Serialization within the part, lot, or batch number” means each item of a particular part, lot, or batch number is assigned a unique serial number within that part, lot, or batch number assignment. The enterprise is responsible for ensuring unique serialization within the part, lot, or batch number within the enterprise identifier.

“Type designation” means a combination of letters and numerals assigned by the Government to a major end item, assembly or subassembly, as appropriate, to provide a convenient means of differentiating between items having the same basic name and to indicate modifications and changes thereto.

“Unique item identifier” means a set of data elements marked on items that is globally unique and unambiguous. The term includes a concatenated unique item identifier or a DoD recognized unique identification equivalent.

“Unique item identifier type” means a designator to indicate which method of uniquely identifying a part has been used. The current list of accepted unique item identifier types is maintained at <https://www.acq.osd.mil/asda/dpc/ce/ds/unique-id.html>.

(b) The Contractor shall deliver all items under a contract line, subline, or exhibit line item.

(c) *Unique item identifier.*

(1) The Contractor shall provide a unique item identifier for the following:

(i) Delivered items for which the Government’s unit acquisition cost is \$5,000 or more, except for the following line items:

Contract Line, Subline, or

Exhibit Line Item Number Item Description

(ii) Items for which the Government’s unit acquisition cost is less than \$5,000 that are identified in the Schedule or the following table:

Contract Line, Subline, or

Exhibit Line Item Number Item Description

(If items are identified in the Schedule, insert “See Schedule” in this table.)

(iii) Subassemblies, components, and parts embedded within delivered items, items with warranty requirements, DoD serially managed reparables and DoD serially managed nonreparables as specified in Attachment Number ____.

(iv) Any item of special tooling or special test equipment as defined in FAR 2.101 that have been designated for preservation and storage for a Major Defense Acquisition Program as specified in Attachment Number ____.

(v) Any item not included in (i), (ii), (iii), or (iv) for which the contractor creates and marks a unique item identifier for traceability.

(2) The unique item identifier assignment and its component data element combination shall not be duplicated on any other item marked or registered in the DoD Item Unique Identification Registry by the contractor.

(3) The unique item identifier component data elements shall be marked on an item using two dimensional data matrix symbology that complies with ISO/IEC International Standard 16022, Information technology – International symbology specification – Data matrix; ECC200 data matrix specification.

(4) *Data syntax and semantics of unique item identifiers.* The Contractor shall ensure that—

(i) The data elements (except issuing agency code) of the unique item identifier are encoded within the data matrix symbol that is marked on the item using one of the following three types of data qualifiers, as determined by the Contractor:

(A) Application Identifiers (AIs) (Format Indicator 05 of ISO/IEC International Standard 15434), in accordance with ISO/IEC International Standard 15418, Information Technology – EAN/UCC Application Identifiers and Fact Data Identifiers and Maintenance and ANSI MH 10.8.2 Data Identifier and Application Identifier Standard.

(B) Data Identifiers (DIs) (Format Indicator 06 of ISO/IEC International Standard 15434), in accordance with ISO/IEC International Standard 15418, Information Technology – EAN/UCC Application Identifiers and Fact Data Identifiers and Maintenance and ANSI MH 10.8.2 Data Identifier and Application Identifier Standard.

(C) Text Element Identifiers (TEIs) (Format Indicator 12 of ISO/IEC International Standard 15434), in accordance with the Air Transport Association Common Support Data Dictionary; and

(ii) The encoded data elements of the unique item identifier conform to the transfer structure, syntax, and coding of messages and data formats specified for Format Indicators 05, 06, and 12 in ISO/IEC International Standard 15434, Information Technology – Transfer Syntax for High Capacity Automatic Data Capture Media.

(5) *Unique item identifier.*

(i) The Contractor shall—

(A) Determine whether to—

(1) Serialize within the enterprise identifier;

(2) Serialize within the part, lot, or batch number; or

(3) Use a DoD recognized unique identification equivalent (e.g. Vehicle Identification Number); and

(B) Place the data elements of the unique item identifier (enterprise identifier; serial number; DoD recognized unique identification equivalent; and for serialization within the part, lot, or batch number only: original part, lot, or batch number) on items requiring marking by paragraph (c)(1) of this clause, based on the criteria provided in MIL-STD-130, Identification Marking of U.S. Military Property, latest version;

(C) Label shipments, storage containers and packages that contain uniquely identified items in accordance with the requirements of MIL-STD-129, Military Marking for Shipment and Storage, latest version; and

(D) Verify that the marks on items and labels on shipments, storage containers, and packages are machine readable and conform to the applicable standards. The contractor shall use an automatic identification technology device for this verification that has been programmed to the requirements of Appendix A, MIL-STD-130, latest version.

(ii) The issuing agency code—

(A) Shall not be placed on the item; and

(B) Shall be derived from the data qualifier for the enterprise identifier.

(d) For each item that requires item unique identification under paragraph (c)(1)(i), (ii), or (iv) of this clause or when item unique identification is provided under paragraph (c)(1)(v), in addition to the information provided as part of the Material Inspection and Receiving Report specified elsewhere in this contract, the Contractor shall report at the time of delivery, as part of the Material Inspection and Receiving Report, the following information:

(1) Unique item identifier.

(2) Unique item identifier type.

(3) Issuing agency code (if concatenated unique item identifier is used).

(4) Enterprise identifier (if concatenated unique item identifier is used).

(5) Original part number (if there is serialization within the original part number).

(6) Lot or batch number (if there is serialization within the lot or batch number).

(7) Current part number (optional and only if not the same as the original part number).

(8) Current part number effective date (optional and only if current part number is used).

(9) Serial number (if concatenated unique item identifier is used).

(10) Government's unit acquisition cost.

(11) Unit of measure.

(12) Type designation of the item as specified in the contract schedule, if any.

(13) Whether the item is an item of Special Tooling or Special Test Equipment.

(14) Whether the item is covered by a warranty.

(e) For embedded subassemblies, components, and parts that require DoD item unique identification under paragraph (c)(1)(iii) of this clause or when item unique identification is provided under paragraph (c)(1)(v), the Contractor shall report as part of the Material Inspection and Receiving Report specified elsewhere in this contract, the following information:

(1) Unique item identifier of the parent item under paragraph (c)(1) of this clause that contains the embedded subassembly, component, or part.

(2) Unique item identifier of the embedded subassembly, component, or part.

(3) Unique item identifier type.**

(4) Issuing agency code (if concatenated unique item identifier is used).**

(5) Enterprise identifier (if concatenated unique item identifier is used).**

(6) Original part number (if there is serialization within the original part number).**

(7) Lot or batch number (if there is serialization within the lot or batch number).**

(8) Current part number (optional and only if not the same as the original part number).**

(9) Current part number effective date (optional and only if current part number is used).**

(10) Serial number (if concatenated unique item identifier is used).**

(11) Description.

** Once per item.

(f) The Contractor shall submit the information required by paragraphs (d) and (e) of this clause as follows:

(1) End items shall be reported using the receiving report capability in Wide Area WorkFlow (WAWF) in accordance with the clause at [252.232-7003](#). If WAWF is not required by this contract, and the contractor is not using WAWF, follow the procedures at <http://dodprocurementtoolbox.com/site/uidregistry/>.

(2) Embedded items shall be reported by one of the following methods—

(i) Use of the embedded items capability in WAWF;

(ii) Direct data submission to the IUID Registry following the procedures and formats at <http://dodprocurementtoolbox.com/site/uidregistry/>; or

(iii) Via WAWF as a deliverable attachment for exhibit line item number (*fill in*) ____, Unique Item Identifier Report for Embedded Items, Contract Data Requirements List, DD Form 1423.

(g) *Subcontracts*. If the Contractor acquires by subcontract, any item(s) for which item unique identification is required in accordance with paragraph (c)(1) of this clause, the Contractor shall include this clause, including this paragraph (g), in the applicable subcontract(s), including subcontracts for commercial items.

252.223-7008

252.223-7008 Prohibition of Hexavalent Chromium.

As prescribed in [223.7306](#), use the following clause:

PROHIBITION OF HEXAVALENT CHROMIUM (JUN 2013)

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

“Homogeneous material” means a material that cannot be mechanically disjointed into different materials and is of uniform composition throughout.

(1) Examples of homogeneous materials include individual types of plastics, ceramics, glass, metals, alloys, paper, board, resins, and surface coatings.

(2) Homogeneous material does not include conversion coatings that chemically modify the substrate.

“Mechanically disjointed” means that the materials can, in principle, be separated by mechanical actions such as unscrewing, cutting, crushing, grinding, and abrasive processes.

(b) *Prohibition.*

(1) Unless otherwise specified by the Contracting Officer, the Contractor shall not provide any deliverable or construction material under this contract that—

(i) Contains hexavalent chromium in a concentration greater than 0.1 percent by weight in any homogenous material; or

(ii) Requires the removal or reapplication of hexavalent chromium materials during subsequent sustainment phases of the deliverable or construction material.

(2) This prohibition does not apply to hexavalent chromium produced as a by-product of manufacturing processes.

(c) If authorization for incorporation of hexavalent chromium in a deliverable or construction material is required, the Contractor shall submit a request to the Contracting Officer.

(d) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (d), in all subcontracts, including subcontracts for commercial items, that are for supplies, maintenance and repair services, or construction materials.

252.225-7013

252.225-7013 Duty-Free Entry.

As prescribed in [225.1101](#) (4), use the following clause:

DUTY-FREE ENTRY (MAR 2022)

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

“Component,” means any item supplied to the Government as part of an end product or of another component.

“Customs territory of the United States” means the 50 States, the District of Columbia, and Puerto Rico.

“Eligible product” means—

(i) “Designated country end product,” as defined in the Trade Agreements (either basic or alternate) clause of this contract;

(ii) “Free Trade Agreement country end product,” other than a “Bahrainian end product,” a “Moroccan end product,” a Panamanian end product,” or a “Peruvian end product,” as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either basic or alternate II) clause of this contract, basic or its Alternate II;

(iii) “Canadian end product,” as defined in the Buy American—Free Trade Agreements—Balance of Payments Program (either alternate I or alternate III) clause of this Contract; or

(iv) “Free Trade Agreement country end product” other than a “Bahrainian end product,” “Korean end product,” “Moroccan end product,” “Panamanian end product,” or “Peruvian end product,” as defined in of the Buy American—Free Trade Agreements—Balance of Payments Program (either alternate IV or alternate V) clause of this contract.

“Qualifying country” and “qualifying country end product” have the meanings given in the Trade Agreements clause, the Buy American and Balance of Payments Program clause, or the Buy American—Free Trade Agreements—Balance of Payments Program clause of this contract, basic or alternate.

(b) Except as provided in paragraph (i) of this clause, or unless supplies were imported into the customs territory of the United States before the date of this contract or the applicable subcontract, the price of this contract shall not include any amount for duty on—

(1) End items that are eligible products or qualifying country end products;

(2) Components (including, without limitation, raw materials and intermediate assemblies) produced or made in qualifying countries, that are to be incorporated in U.S.- made end products to be delivered under this contract; or

(3) Other supplies for which the Contractor estimates that duty will exceed \$300 per shipment into the customs territory of the United States.

(c) The Contractor shall—

(1) Claim duty-free entry only for supplies that the Contractor intends to deliver to the Government under this contract, either as end items or components of end items; and

(2) Pay duty on supplies, or any portion thereof, that are diverted to nongovernmental use, other than—

(i) Scrap or salvage; or

(ii) Competitive sale made, directed, or authorized by the Contracting Officer.

(d) Except as the Contractor may otherwise agree, the Government will execute duty-free entry certificates and will afford such assistance as appropriate to obtain the duty-free entry of supplies—

(1) For which no duty is included in the contract price in accordance with paragraph (b) of this clause; and

(2) For which shipping documents bear the notation specified in paragraph (e) of this clause.

(e) For foreign supplies for which the Government will issue duty-free entry certificates in accordance with this clause, shipping documents submitted to Customs shall—

(1) Consign the shipments to the appropriate—

(i) Military department in care of the Contractor, including the Contractor's delivery address; or

(ii) Military installation; and

(2) Include the following information:

(i) Prime contract number and, if applicable, delivery order number.

(ii) Number of the subcontract for foreign supplies, if applicable.

(iii) Identification of the carrier.

(iv)(A) For direct shipments to a U.S. military installation, the notation: “UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE Duty-Free Entry to be claimed pursuant to Section XXII, Chapter 98, Subchapter VIII, Item 9808.00.30 of the Harmonized Tariff Schedule of the United States. Upon arrival of shipment at the appropriate port of entry, District Director of Customs, please release shipment under 19 CFR Part 142 and notify Commander, Defense Contract Management Agency (DCMA), St. Louis, MO, ATTN: Duty Free Entry Team, 1222 Spruce Street, Room 9.300, St. Louis, MO 63103-2812, for execution of Customs Form 7501, 7501A, or 7506 and any required duty-free entry certificates.”

(B) If the shipment will be consigned to other than a military installation, e.g., a domestic contractor's plant, the shipping document notation shall be altered to include the name and address of the contractor, agent, or broker who will notify Commander, DCMA New York, for execution of the duty-free entry certificate. (If the shipment will be consigned to a contractor's plant and no duty-free entry certificate is required due to a trade agreement, the Contractor shall claim duty-free entry under the applicable trade agreement and shall comply with the U.S. Customs Service requirements. No notification to Commander, DCMA New York, is required.)

(v) Gross weight in pounds (if freight is based on space tonnage, state cubic feet in addition to gross shipping weight).

(vi) Estimated value in U.S. dollars.

(vii) Activity address number of the contract administration office administering the prime contract, e.g., for DCMA Dayton, S3605A.

(f) *Preparation of customs forms.*

(1)(i) Except for shipments consigned to a military installation, the Contractor shall—

(A) Prepare any customs forms required for the entry of foreign supplies into the customs territory of the United States in connection with this contract; and

(B) Submit the completed customs forms to the District Director of Customs, with a copy to DCMA NY for execution of any required duty-free entry certificates.

(ii) Shipments consigned directly to a military installation will be released in accordance with sections 10.101 and 10.102 of the U.S. Customs regulations.

(2) For shipments containing both supplies that are to be accorded duty-free entry and supplies that are not, the Contractor shall identify on the customs forms those items that are eligible for duty-free entry.

(g) The Contractor shall—

(1) Prepare (if the Contractor is a foreign supplier), or shall instruct the foreign supplier to prepare, a sufficient number of copies of the bill of lading (or other shipping document) so that at least two of the copies accompanying the shipment will be available for use by the District Director of Customs at the port of entry;

(2) Consign the shipment as specified in paragraph (e) of this clause; and

(3) Mark on the exterior of all packages—

(i) “UNITED STATES GOVERNMENT, DEPARTMENT OF DEFENSE”; and

(ii) The activity address number of the contract administration office administering the prime contract.

(h) The Contractor shall notify the Administrative Contracting Officer (ACO) in writing of any purchase of eligible products or qualifying country supplies to be accorded duty-free entry, that are to be imported into the customs territory of the United States for delivery to the Government or for incorporation in end items to be delivered to the Government. The Contractor shall furnish the notice to the ACO immediately upon award to the supplier and shall include in the notice—

(1) The Contractor’s name, address, and Commercial and Government Entity (CAGE) code;

(2) Prime contract number and, if applicable, delivery order number;

(3) Total dollar value of the prime contract or delivery order;

(4) Date of the last scheduled delivery under the prime contract or delivery order;

(5) Foreign supplier's name and address;

(6) Number of the subcontract for foreign supplies;

(7) Total dollar value of the subcontract for foreign supplies;

(8) Date of the last scheduled delivery under the subcontract for foreign supplies;

(9) List of items purchased;

(10) An agreement that the Contractor will pay duty on supplies, or any portion thereof, that are diverted to nongovernmental use other than—

(i) Scrap or salvage; or

(ii) Competitive sale made, directed, or authorized by the Contracting Officer;

(11) Country of origin; and

(12) Scheduled delivery date(s).

(i) This clause does not apply to purchases of eligible products or qualifying country supplies in connection with this contract if—

(1) The supplies are identical in nature to supplies purchased by the Contractor or any subcontractor in connection with its commercial business; and

(2) It is not economical or feasible to account for such supplies so as to ensure that the amount of the supplies for which duty-free entry is claimed does not exceed the amount purchased in connection with this contract.

(j) The Contractor shall—

(1) Insert the substance of this clause, including this paragraph (j), in all subcontracts for—

(i) Qualifying country components; or

(ii) Nonqualifying country components for which the Contractor estimates that duty will exceed \$200 per unit;

(2) Require subcontractors to include the number of this contract on all shipping documents submitted to Customs for supplies for which duty-free entry is claimed pursuant to this clause; and

(3) Include in applicable subcontracts—

(i) The name and address of the ACO for this contract;

(ii) The name, address, and activity address number of the contract administration office specified in this contract; and

(iii) The information required by paragraphs (h)(1), (2), and (3) of this clause.

252.225-7016

252.225-7016 Restriction on Acquisition of Ball and Roller Bearings.

As prescribed in [225.7009-5](#) , use the following clause:

RESTRICTION ON ACQUISITION OF BALL AND ROLLER BEARINGS (JUN 2011)

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

(1) “Bearing components” means the bearing element, retainer, inner race, or outer race.

(2) “Component,” other than a bearing component, means any item supplied to the Government as part of an end product or of another component.

(3) “End product” means supplies delivered under a line item of this contract.

(b) Except as provided in paragraph (c) of this clause—

(1) Each ball and roller bearing delivered under this contract shall be manufactured in the United States, its outlying areas, or Canada; and

(2) For each ball or roller bearing, the cost of the bearing components manufactured in the United States, its outlying areas, or Canada shall exceed 50 percent of the total cost of the bearing components of that ball or roller bearing.

(c) The restriction in paragraph (b) of this clause does not apply to ball or roller bearings that are acquired as—

(1) Commercial components of a noncommercial end product; or

(2) Commercial or noncommercial components of a commercial component of a noncommercial end product.

(d) The restriction in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with subsection [225.7009-4](#) of the Defense Federal Acquisition Regulation Supplement.

(e) If this contract includes DFARS clause [252.225-7009](#) , Restriction on Acquisition of Certain Articles Containing Specialty Metals, all bearings that contain specialty metals, as defined in that clause, must meet the requirements of that clause.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts, except those for—

(1) Commercial items; or

(2) Items that do not contain ball or roller bearings.

252.225-7025

252.225-7025 Restriction on Acquisition of Forgings.

As prescribed in [225.7102-4](#) , use the following clause:

RESTRICTION ON ACQUISITION OF FORGINGS (DEC 2009)

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

(1) “Component” means any item supplied to the Government as part of an end product or of another component.

(2) “Domestic manufacture” means manufactured in the United States, its outlying areas; or Canada.

(3) “Forging items” means—

ITEMS

CATEGORIES

Ship propulsion shafts

Excludes service and landing craft shafts

Periscope tubes

All

Ring forgings for bull gears All greater than 120 inches in diameter

- (b) End products and their components delivered under this contract shall contain forging items that are of domestic manufacture only.
- (c) The restriction in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with subsection [225.7102-3](#) of the Defense Federal Acquisition Regulation Supplement.
- (d) The Contractor shall retain records showing compliance with the restriction in paragraph (b) of this clause until 3 years after final payment and shall make the records available upon request of the Contracting Officer.
- (e) The Contractor shall insert the substance of this clause, including this paragraph (e), in subcontracts for forging items or for other items that contain forging items.

252.225-7048

252.225-7048 Export-Controlled Items.

As prescribed in [225.7901-4](#) , use the following clause:

EXPORT CONTROLLED ITEMS (JUNE 2013)

(a) *Definition.* “Export-controlled items,” as used in this clause, means items subject to the Export Administration Regulations (EAR) (15 CFR Parts 730-774) or the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). The term includes:

(1) “Defense items,” defined in the Arms Export Control Act, 22 U.S.C. 2778(j)(4)(A), as defense articles, defense services, and related technical data, and further defined in the ITAR, 22 CFR Part 120.

(2) “Items,” defined in the EAR as “commodities”, “software”, and “technology,” terms that are also defined in the EAR, 15 CFR 772.1.

(b) The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to

compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.

(c) The Contractor's responsibility to comply with all applicable laws and regulations regarding export-controlled items exists independent of, and is not established or limited by, the information provided by this clause.

(d) Nothing in the terms of this contract adds, changes, supersedes, or waives any of the requirements of applicable Federal laws, Executive orders, and regulations, including but not limited to—

(1) The Export Administration Act of 1979, as amended (50 U.S.C. App. 2401, *et seq.*);

(2) The Arms Export Control Act (22 U.S.C. 2751, *et seq.*);

(3) The International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*);

(4) The Export Administration Regulations (15 CFR Parts 730-774);

(5) The International Traffic in Arms Regulations (22 CFR Parts 120-130); and

(6) Executive Order 13222, as extended.

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

252.232-7017

252.232-7017 Accelerating Payments to Small Business Subcontractors—Prohibition on Fees and Consideration.

As prescribed in [232.009-2](#) , use the following clause:

ACCELERATING PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS—
PROHIBITION ON FEES AND CONSIDERATION (APR 2020)

(a) Definition. “Accelerated payment,” as used in this clause, means a payment made to a small business subcontractor as quickly as possible, with a goal of 15 days or less after receipt of payment from the Government or receipt of a proper invoice from the subcontractor, whichever is later.

(b) In accordance with section 852 of Public Law 115-232, the Contractor shall not require any further consideration from or charge fees to the small business subcontractor when making accelerated payments, as defined in paragraph (a) of this clause, to subcontractors under the clause at FAR 52.232-40, Providing Accelerated Payments to Small Business Subcontractors.

(c) Subcontracts. Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including those for the acquisition of commercial items.

252.244-7000

252.244-7000 Subcontracts for Commercial Items.

As prescribed in [244.403](#) , use the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (DOD CONTRACTS) (JAN 2021)

(a) The Contractor is not required to flow down the terms of any Defense Federal Acquisition Regulation Supplement (DFARS) clause in subcontracts for commercial items at any tier under this contract, unless so specified in the particular clause.

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

(c)(1) In accordance with [10 U.S.C. 2380b](#), the Contractor shall treat as commercial items any items valued at less than \$10,000 per item that were purchased by the Contractor for use in the performance of multiple contracts with the Department of Defense and other parties and are not identifiable to any particular contract when purchased.

(2) The Contractor shall ensure that any items to be used in performance of this contract, that are treated as commercial items pursuant to paragraph (c)(1) of this clause, meet all terms and conditions of this contract that are applicable to commercial items in accordance with the clause at Federal Acquisition Regulation 52.244-6 and paragraph (a) of this clause.

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

252.246-7003

252.246-7003 Notification of Potential Safety Issues.

As prescribed in [246.370](#) (a), use the following clause:

NOTIFICATION OF POTENTIAL SAFETY ISSUES (JUN 2013)

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

“Credible information” means information that, considering its source and the surrounding circumstances, supports a reasonable belief that an event has occurred or will occur.

“Critical safety item” means a part, subassembly, assembly, subsystem, installation equipment, or support equipment for a system that contains a characteristic, any failure, malfunction, or absence of which could have a safety impact.

“Safety impact” means the occurrence of death, permanent total disability, permanent partial disability, or injury or occupational illness requiring hospitalization; loss of a weapon system; or property damage exceeding \$1,000,000.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for the Contractor or another subcontractor under this contract.

(b) The Contractor shall provide notification, in accordance with paragraph (c) of this clause, of—

(1) All nonconformances for parts identified as critical safety items acquired by the Government under this contract; and

(2) All nonconformances or deficiencies that may result in a safety impact for systems, or subsystems, assemblies, subassemblies, or parts integral to a system, acquired by or serviced for the Government under this contract.

(c) The Contractor—

(1) Shall notify the Administrative Contracting Officer (ACO) and the Procuring Contracting Officer (PCO) as soon as practicable, but not later than 72 hours, after discovering or acquiring credible information concerning nonconformances and deficiencies described in paragraph (b) of this clause; and

(2) Shall provide a written notification to the ACO and the PCO within 5 working days that includes—

(i) A summary of the defect or nonconformance;

(ii) A chronology of pertinent events;

(iii) The identification of potentially affected items to the extent known at the time of notification;

(iv) A point of contact to coordinate problem analysis and resolution; and

(v) Any other relevant information.

(d) The Contractor—

(1) Is responsible for the notification of potential safety issues occurring with regard to an item furnished by any subcontractor; and

(2) Shall facilitate direct communication between the Government and the subcontractor as necessary.

(e) Notification of safety issues under this clause shall be considered neither an admission of responsibility nor a release of liability for the defect or its consequences. This clause does not affect any right of the Government or the Contractor established elsewhere in this contract.

(f)(1) The Contractor shall include the substance of this clause, including this paragraph (f), in subcontracts for—

- (i) Parts identified as critical safety items;
 - (ii) Systems and subsystems, assemblies, and subassemblies integral to a system; or
 - (iii) Repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies, subassemblies, and parts integral to a system.
- (2) For those subcontracts, including subcontracts for commercial items, described in paragraph (f)(1) of this clause, the Contractor shall require the subcontractor to provide the notification required by paragraph (c) of this clause to—
- (i) The Contractor or higher-tier subcontractor; and
 - (ii) The ACO and the PCO, if the subcontractor is aware of the ACO and the PCO for the contract.

252.246-7007

252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System.

As prescribed in [246.870-3](#) (a), use the following clause:

CONTRACTOR COUNTERFEIT ELECTRONIC PART DETECTION AND AVOIDANCE SYSTEM (AUG 2016)

The following paragraphs (a) through (e) of this clause do not apply unless the Contractor is subject to the Cost Accounting Standards under 41 U.S.C. chapter 15, as implemented in regulations found at 48 CFR 9903.201-1.

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

“Authorized aftermarket manufacturer” means an organization that fabricates a part under a contract with, or with the express written authority of, the original component manufacturer based on the original component manufacturer’s designs, formulas, and/or specifications.

“Authorized supplier” means a supplier, distributor, or an aftermarket manufacturer with a contractual arrangement with, or the express written authority of, the original

manufacturer or current design activity to buy, stock, repackage, sell, or distribute the part.

“Contract manufacturer” means a company that produces goods under contract for another company under the label or brand name of that company.

“Contractor-approved supplier” means a supplier that does not have a contractual agreement with the original component manufacturer for a transaction, but has been identified as trustworthy by a contractor or subcontractor.

“Counterfeit electronic part” means an unlawful or unauthorized reproduction, substitution, or alteration that has been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified electronic part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used electronic parts represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.

“Electronic part” means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly (section 818(f)(2) of Pub. L. 112-81).

“Obsolete electronic part” means an electronic part that is no longer available from the original manufacturer or an authorized aftermarket manufacturer.

"Original component manufacturer" means an organization that designs and/or engineers a part and is entitled to any intellectual property rights to that part.

“Original equipment manufacturer” means a company that manufactures products that it has designed from purchased components and sells those products under the company's brand name.

“Original manufacturer” means the original component manufacturer, the original equipment manufacturer, or the contract manufacturer.

“Suspect counterfeit electronic part” means an electronic part for which credible evidence (including, but not limited to, visual inspection or testing) provides reasonable doubt that the electronic part is authentic.

(b) *Acceptable counterfeit electronic part detection and avoidance system.* The Contractor shall establish and maintain an acceptable counterfeit electronic part

detection and avoidance system. Failure to maintain an acceptable counterfeit electronic part detection and avoidance system, as defined in this clause, may result in disapproval of the purchasing system by the Contracting Officer and/or withholding of payments and affect the allowability of costs of counterfeit electronic parts or suspect counterfeit electronic parts and the cost of rework or corrective action that may be required to remedy the use or inclusion of such parts (see DFARS [231.205-71](#)).

(c) *System criteria.* A counterfeit electronic part detection and avoidance system shall include risk-based policies and procedures that address, at a minimum, the following areas:

(1) The training of personnel.

(2) The inspection and testing of electronic parts, including criteria for acceptance and rejection. Tests and inspections shall be performed in accordance with accepted Government- and industry-recognized techniques. Selection of tests and inspections shall be based on minimizing risk to the Government. Determination of risk shall be based on the assessed probability of receiving a counterfeit electronic part; the probability that the inspection or test selected will detect a counterfeit electronic part; and the potential negative consequences of a counterfeit electronic part being installed (e.g., human safety, mission success) where such consequences are made known to the Contractor.

(3) Processes to abolish counterfeit parts proliferation.

(4) Risk-based processes that enable tracking of electronic parts from the original manufacturer to product acceptance by the Government, whether the electronic parts are supplied as discrete electronic parts or are contained in assemblies, in accordance with paragraph (c) of the clause at [252.246-7008](#) , Sources of Electronic Parts (also see paragraph (c)(2) of this clause).

(5) Use of suppliers in accordance with the clause at [252.246-7008](#) .

(6) Reporting and quarantining of counterfeit electronic parts and suspect counterfeit electronic parts. Reporting is required to the Contracting Officer and to the Government-Industry Data Exchange Program (GIDEP) when the Contractor becomes aware of, or has reason to suspect that, any electronic part or end item, component, part, or assembly containing electronic parts purchased by the DoD, or purchased by a Contractor for delivery to, or on behalf of, the DoD, contains counterfeit electronic parts or suspect counterfeit electronic parts. Counterfeit electronic parts and suspect counterfeit electronic parts shall not be returned to the

seller or otherwise returned to the supply chain until such time that the parts are determined to be authentic.

(7) Methodologies to identify suspect counterfeit parts and to rapidly determine if a suspect counterfeit part is, in fact, counterfeit.

(8) Design, operation, and maintenance of systems to detect and avoid counterfeit electronic parts and suspect counterfeit electronic parts. The Contractor may elect to use current Government- or industry-recognized standards to meet this requirement.

(9) Flow down of counterfeit detection and avoidance requirements, including applicable system criteria provided herein, to subcontractors at all levels in the supply chain that are responsible for buying or selling electronic parts or assemblies containing electronic parts, or for performing authentication testing.

(10) Process for keeping continually informed of current counterfeiting information and trends, including detection and avoidance techniques contained in appropriate industry standards, and using such information and techniques for continuously upgrading internal processes.

(11) Process for screening GIDEP reports and other credible sources of counterfeiting information to avoid the purchase or use of counterfeit electronic parts.

(12) Control of obsolete electronic parts in order to maximize the availability and use of authentic, originally designed, and qualified electronic parts throughout the product's life cycle.

(d) Government review and evaluation of the Contractor's policies and procedures will be accomplished as part of the evaluation of the Contractor's purchasing system in accordance with [252.244-7001](#), Contractor Purchasing System Administration—Basic, or Contractor Purchasing System Administration—Alternate I.

(e) The Contractor shall include the substance of this clause, excluding the introductory text and including only paragraphs (a) through (e), in subcontracts, including subcontracts for commercial items, for electronic parts or assemblies containing electronic parts.

252.246-7008 Sources of Electronic Parts.

As prescribed in [246.870-3](#) (b), use the following clause:

SOURCES OF ELECTRONIC PARTS (MAY 2018)

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

“Authorized aftermarket manufacturer” means an organization that fabricates a part under a contract with, or with the express written authority of, the original component manufacturer based on the original component manufacturer’s designs, formulas, and/or specifications.

“Authorized supplier” means a supplier, distributor, or an aftermarket manufacturer with a contractual arrangement with, or the express written authority of, the original manufacturer or current design activity to buy, stock, repackage, sell, or distribute the part.

“Contract manufacturer” means a company that produces goods under contract for another company under the label or brand name of that company.

“Contractor-approved supplier” means a supplier that does not have a contractual agreement with the original component manufacturer for a transaction, but has been identified as trustworthy by a contractor or subcontractor.

“Electronic part” means an integrated circuit, a discrete electronic component (including, but not limited to, a transistor, capacitor, resistor, or diode), or a circuit assembly (section 818(f)(2) of Pub. L. 112-81).

"Original component manufacturer" means an organization that designs and/or engineers a part and is entitled to any intellectual property rights to that part.

“Original equipment manufacturer” means a company that manufactures products that it has designed from purchased components and sells those products under the company's brand name.

“Original manufacturer” means the original component manufacturer, the original equipment manufacturer, or the contract manufacturer.

(b) *Selecting suppliers.* In accordance with section 818(c)(3) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81), as amended by section 817 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113-291) and

section 885 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114-92), the Contractor shall—

(1) First obtain electronic parts that are in production by the original manufacturer or an authorized aftermarket manufacturer or currently available in stock from—

(i) The original manufacturers of the parts;

(ii) Their authorized suppliers; or

(iii) Suppliers that obtain such parts exclusively from the original manufacturers of the parts or their authorized suppliers;

(2) If electronic parts are not available as provided in paragraph (b)(1) of this clause, obtain electronic parts that are not in production by the original manufacturer or an authorized aftermarket manufacturer, and that are not currently available in stock from a source listed in paragraph (b)(1) of this clause, from suppliers identified by the Contractor as contractor-approved suppliers, provided that—

(i) For identifying and approving such contractor-approved suppliers, the Contractor uses established counterfeit prevention industry standards and processes (including inspection, testing, and authentication), such as the DoD-adopted standards at <https://assist.dla.mil>;

(ii) The Contractor assumes responsibility for the authenticity of parts provided by such contractor-approved suppliers; and

(iii) The Contractor's selection of such contractor-approved suppliers is subject to review, audit, and approval by the Government, generally in conjunction with a contractor purchasing system review or other surveillance of purchasing practices by the contract administration office, or if the Government obtains credible evidence that a contractor-approved supplier has provided counterfeit parts. The Contractor may proceed with the acquisition of electronic parts from a contractor-approved supplier unless otherwise notified by DoD; or

(3)(i) Take the actions in paragraph (b)(3)(ii) of this clause if the Contractor—

(A) Obtains an electronic part from—

(1) A source other than any of the sources identified in paragraph (b)(1) or (b)(2) of this clause, due to nonavailability from such sources; or

(2) A subcontractor (other than the original manufacturer) that refuses to accept flowdown of this clause; or

(B) Cannot confirm that an electronic part is new or previously unused and that it has not been comingled in supplier new production or stock with used, refurbished, reclaimed, or returned parts.

(ii) If the contractor obtains an electronic part or cannot confirm an electronic part pursuant to paragraph (b)(3)(i) of this clause—

(A) Promptly notify the Contracting Officer in writing. If such notification is required for an electronic part to be used in a designated lot of assemblies to be acquired under a single contract, the Contractor may submit one notification for the lot, providing identification of the assemblies containing the parts (e.g., serial numbers);

(B) Be responsible for inspection, testing, and authentication, in accordance with existing applicable industry standards; and

(C) Make documentation of inspection, testing, and authentication of such electronic parts available to the Government upon request.

(c) *Traceability.* If the Contractor is not the original manufacturer of, or authorized supplier for, an electronic part, the Contractor shall—

(1) Have risk-based processes (taking into consideration the consequences of failure of an electronic part) that enable tracking of electronic parts from the original manufacturer to product acceptance by the Government, whether the electronic part is supplied as a discrete electronic part or is contained in an assembly;

(2) If the Contractor cannot establish this traceability from the original manufacturer for a specific electronic part, be responsible for inspection, testing, and authentication, in accordance with existing applicable industry standards; and

(3)(i) Maintain documentation of traceability (paragraph (c)(1) of this clause) or the inspection, testing, and authentication required when traceability cannot be established (paragraph (c)(2) of this clause) in accordance with FAR subpart 4.7; and

(ii) Make such documentation available to the Government upon request.

(d) *Government sources.* Contractors and subcontractors are still required to comply with the requirements of paragraphs (b) and (c) of this clause, as applicable, if—

- (1) Authorized to purchase electronic parts from the Federal Supply Schedule;
 - (2) Purchasing electronic parts from suppliers accredited by the Defense Microelectronics Activity; or
 - (3) Requisitioning electronic parts from Government inventory/stock under the authority of [252.251-7000](#) , Ordering from Government Supply Sources.
- (i) The cost of any required inspection, testing, and authentication of such parts may be charged as a direct cost.
 - (ii) The Government is responsible for the authenticity of the requisitioned parts. If any such part is subsequently found to be counterfeit or suspect counterfeit, the Government will—
 - (A) Promptly replace such part at no charge; and
 - (B) Consider an adjustment in the contract schedule to the extent that replacement of the counterfeit or suspect counterfeit electronic parts caused a delay in performance.
- (e) *Subcontracts*. The Contractor shall include the substance of this clause, including this paragraph (e), in subcontracts, including subcontracts for commercial items, that are for electronic parts or assemblies containing electronic parts, unless the subcontractor is the original manufacturer.