

## **Appendix SFA-1 FAR & DEAR Clauses Incorporated By Reference**

- (a) The Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR) clauses which are incorporated by reference herein shall have the same force and effect as if printed in full text.
- (b) Full text of the referenced clauses may be accessed electronically at website address: <http://www.acquisition.gov/far/> or <http://www.management.energy.gov/DEAR.htm>
- (c) The following alterations shall apply to FAR and DEAR clauses wherever necessary to make the context of the unmodified FAR and DEAR clauses applicable to this subcontract.
  - (1) The term "Contractor" shall mean "SUBCONTRACTOR;"
  - (2) The term "Contract" shall mean this subcontract; and
  - (3) The term "DOE", "Government," "Contracting Officer" and equivalent phrases shall mean CONTRACTOR and/or CONTRACTOR'S representative, except the terms "Government" and "Contracting Officer" do not change:
    - (i) In the phrases "Government Property," "Government-Furnished Property," and "Government-Owned Property;"
    - (ii) In any patent clauses incorporated herein;
    - (iii) When a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or his duly authorized representative;
    - (iv) When title to property is to be transferred directly to the Government;
    - (v) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and
    - (vi) Where specifically modified herein.
  - (4) For authorized audit rights, the term "Contracting Officer or an authorized representative of the Contracting Officer" shall also include "CONTRACTOR, or an authorized representative of CONTRACTOR."
- (d) Each of the individual FAR/DEAR clauses listed below is incorporated by reference into this subcontract when the condition(s) for applicability is/are met.

<b>THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.202-1	Definitions (Jul 2004)	'Agency head' or 'head of agency' means the Secretary, Deputy Secretary, or the Under Secretary and Administrator for National Nuclear Security Administration of the Department of Energy. 'Senior Procurement Executive' means, the individuals who are responsible for management direction of the acquisition system of NNSA, including implementation of the unique acquisition policies, regulations, and standards of NNSA. For NNSA, it is the Administrator for Nuclear Security and the Director, Acquisition and Supply Management.
FAR 52.222-50	Combating Trafficking in Persons (Feb 2009)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101.
FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) Alternate I (Jul 1995)	Applies if subcontract involves delivery of hazardous materials as defined in FAR subpart 23.301. If applicable, the term "Government" as used in this clause means "CONTRACTOR and the Government.
FAR 52.223-5	Pollution Prevention And Right-To-Know Information (Aug 2003) Alternate I (Aug 2003)	The words "section 503 of Executive Order 13148" in the definition of Priority chemical are deleted and "Implementing Instruction VIII of Executive Order 13423" substituted in their place. The words "sections 502 and 503 of Executive Order 13148" in paragraph (c)(6) are deleted and "Implementing Instruction VIII of Executive Order 13423" substituted in their place. The words "401 of E.O. 13148" in paragraph (c)(7) are deleted and "3(b) of Executive Order 13423" substituted in their place.
FAR 52.223-10	Waste Reduction Program (Aug 2000)	The words "701 of Executive Order 13101" in paragraph (b) are deleted and "3(a) of Executive Order 13423" substituted in their place.
FAR 52.223-12	Refrigeration Equipment and Air Conditioners (May 1995)	Applies only to subcontracts for maintenance, repair or disposal of any equipment or appliance using ozone-depleting substances as a refrigerant, such as air conditioners, including motor vehicles, refrigerators, chillers, or freezers.
FAR 52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)	
FAR 52.227-3	Patent Indemnity (Apr 1984)	
FAR 52.244-6	Subcontracts for Commercial Items (Dec 2010)	
FAR 52.245-1	Government Property (Apr 2012)	Applies to (1) fixed-price subcontracts when CONTRACTOR will provide Government property; and (2) subcontracts for the acquisition of commercial items where Government property that exceeds \$150,000 is furnished or where SUBCONTRACTOR is directed to acquire property for use under the subcontract that is titled in the Government.
FAR 52.245-1	Government Property (Apr 2012) Alternate I (Apr 2012)	Applies if subcontract is not awarded on the basis of submission of certified cost or pricing data.
FAR 52.245-2	Government Property Installation Operation Services (Apr 2012)	Applies if work performed at LANL when CONTRACTOR-furnished property will be provided for initial provisioning only and CONTRACTOR is not responsible for repair or replacement.
FAR 52.245-9	Use and Charges (Apr 2012)	Applies only if FAR 52.245-1 is applicable.

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FAR 52.247-63	Preference for U.S.-Flag Air Carriers (Jun 2003)	Applies if performance of subcontract may involve international air transportation.
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	Applies unless exempted by paragraph (e)(4) of FAR 52.247-64.
FAR 52.249-2	Termination for Convenience of the Government (Fixed-Price) (May 2004)	Paragraph (d) is deleted; the period for submitting the subcontractor's termination settlement proposal in paragraph (e) is reduced to 6 months; and the period for submitting the subcontractor's request for equitable price adjustment in paragraph (l) is reduced to 45 days.
FAR 52.249-8	Default (Fixed-Price Supply and Service) (Apr 1984)	Paragraph (d) is deleted; the period for submitting the subcontractor's termination settlement proposal in paragraph (e) is reduced to 6 months; and the period for submitting the subcontractor's request for equitable price adjustment in paragraph (l) is reduced to 45 days.
DEAR 952.203-70	Whistleblower Protection For Contractor Employees (Dec 2000)	Applies to subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.
DEAR 952-204-71	Sensitive Foreign Nations Controls (Apr 1994)	
DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (Oct 2005) As Modified By DOE Acquisition Letter 2005-15  Note: Full text is contained in Special Condition No. SC-14 NUCLEAR HAZARDS INDEMNITY AND PRICE ANDERSON ACT (Jan 2010)	Applies only if performance of subcontract may involve the risk of public liability, as that term is defined in the Atomic Energy Act of 1954, as amended, with the additional conditions described in paragraph (d)(2).
DEAR 970.5223-1	Integration Of Environment, Safety, And Health Into Work Planning And Execution (Dec 2000)	Applies to subcontracts involving complex or hazardous work at LANL.
DEAR 970.5229-1	State and Local Taxes (Dec 2000)	Paragraph (b) is deleted.

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,500:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.222-41	Service Contract Act of 1965 as Amended (Nov 2007)	Unless exempted, applies if the principal purpose of the subcontract is to furnish services in the United States through the use of service employees. See FAR subparts 22.1003-3 and 22.1003-4 for exemptions to SCA.
FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (May 1989)	Applies if FAR 52.222-41 is applicable.
FAR 52.222-43	Fair Labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (Sep 2009)	Applies if FAR 52.222-41 is applicable, and subcontract is a multiple year contract or is a contract with options to renew.
FAR 52.222-44	Fair Labor Standards Act and Service Contract Act – Price Adjustment (Sep 2009)	Applies if FAR 52.222-41 is applicable, and subcontract is not a multiple year contract or is not a contract with options to renew.
FAR 52.222-51	Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements (Nov 2007)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-48(a).
FAR 52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services - Requirements (Feb 2009)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-52(a).

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$3,000:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.222-3	Convict Labor (Jun 2003)	
FAR 52.222-54	Employment Eligibility Verification (Jan 2009)	Applies if (1) subcontract is for construction or commercial or noncommercial services (except for commercial services that are part of the purchase of a commercially available off-the-shelf (COTS) item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); and (2) subcontract includes work performed in the United States.
FAR 52.225-1	Buy American Act - Supplies (Feb 2009)	Applies if the acquisition is for supplies for use within the United States; and none of the exceptions to the Buy American Act apply (e.g., nonavailability, public interest, or information technology that is a commercial item).
FAR 52.232-23	Assignment of Claims (Jan 1986) Alternate I (Apr 1984)	

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.222-21	Prohibition of Segregated Facilities (Feb 1999)	Applies if FAR 52.222-26 is applicable.
FAR 52.222-26	Equal Opportunity (Mar 2007)	Applies unless one of the exemptions listed in FAR Subpart 22.807(b) is applicable.
FAR 52.222-36	Affirmative Action for Workers with Disabilities (Oct 2010)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009.

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$25,000 OR MORE:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
DEAR 970.5223-3	Agreement Regarding Workplace Substance Abuse Programs At DOE Sites (Dec 2000)	Solicitation provision applicable if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.
DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2000)	Applies if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$100,000 OR MORE:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2010)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-37	Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006)	

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$100,000:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.203-3	Gratuities (Apr 1984)	
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006)	
FAR 52.203-7	Anti-Kickback Procedures (Jul 1995)	Paragraph (c) (1) is deleted.
FAR 52.203-12	Limitation On Payments To Influence Certain Federal Transactions (Sep 2007)	
FAR 52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees (Dec 2004)	Applies unless exempted by the Department of Labor Deputy Assistant Secretary for Labor-Management Programs.
FAR 52.227-1	Authorization and Consent (Dec 2007)	
FAR 52.232-17	Interest (Oct 2008)	Applies unless one of the exemptions listed in FAR Subpart 32.611(a) is applicable.
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Aug 2002)	

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$150,000:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.219-8	Utilization of Small Business Concerns (Jan 2011)	Applies if subcontract offers further subcontracting opportunities (except subcontracts to small business concerns). If applicable and subcontract exceeds \$650,000, SUBCONTRACTOR shall include FAR 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$650,000, THE SUBCONTRACTOR IS A LARGE BUSINESS, AND FAR 52.219-8 IS APPLICABLE:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.219-9	Small Business Subcontracting Plan (Jan 2011), Alternate II (Oct 2001)	

<b>THE FOLLOWING CLAUSES APPLY ONLY IF THE SCOPE OF WORK REQUIRES THE DESIGN, DEVELOPMENT, OR OPERATION OF A SYSTEM OF RECORDS ON INDIVIDUALS THAT IS SUBJECT TO THE PRIVACY ACT OF 1974:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.224-1	Privacy Act Notification (Apr 1984)	
FAR 52.224-2	Privacy Act (Apr 1984)	

<b>THE FOLLOWING CLAUSES APPLY AS STATED IN THE INSTRUCTIONS:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Apr 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that exceed \$5,000,000 and have a performance period of more than 120 days.
FAR 52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that are funded under the Act.
FAR 52.208-8	Required Sources For Helium And Helium Usage Data (Apr 2002)	Applies where performance of subcontract involves a major helium requirement. See FAR 52.208-8 for definition of major helium requirement.

<b>THE FOLLOWING CLAUSES APPLY AS STATED IN THE INSTRUCTIONS:</b>		
<b>Clause Number</b>	<b>Title and Date</b>	<b>Instructions</b>
FAR 52.211-15	Defense Priority And Allocation Requirements (Apr 2008)	Applies in subcontracts in support of an approved program issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700).
FAR 52.222-24	Preaward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)	Solicitation provision that applies if proposed subcontract price is expected to be \$10,000,000 or more.
FAR 52.223-7	Notice of Radioactive Materials (Jan 1997)	Applies if items containing either radioactive material (requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended) or other radioactive material (not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries) are to be delivered or serviced under this subcontract.
FAR 52.227-14	Rights in Data - General (Dec 2007) as modified by DEAR 927.409(a) (Dec 2000), including Alternate V (Dec 2007)	Applies if technical data or computer software is expected to be produced or delivered.
FAR 52.227-19	Commercial Computer Software License (Dec 2007)	Applies if purchasing computer software.
DEAR 952.211-71	Priorities And Allocations (Atomic Energy) (Apr 2008)	Applies in subcontracts issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700) that are placed in support of authorized DOE atomic energy programs.
DEAR 952.224-70	Paperwork Reduction Act (Apr 1994)	Applies if it is anticipated that information collection from 10 or more persons will be necessary under the subcontract.
DEAR 970.5227-7	Royalty Information (Dec 2000)	Solicitation provision which applies if the amount of royalties reported during negotiation is >\$250.
DEAR 970.5227-8	Refund Of Royalties (Aug 2002)	Applies if the amount of royalties reported during negotiation of the subcontract exceeds \$250. If applicable, SUBCONTRACTOR shall insert the substance of this clause in all lower tier subcontracts under this subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.