

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 by copying and pasting the appropriate URL address in your web browser:
- | | |
|-------------------|---|
| FAR clauses: | https://www.acquisition.gov/content/part-52-solicitation-provisions-and-contract-clauses |
| DEAR 952 clauses: | https://www.ecfr.gov/cgi-bin/text-idx?SID=838834e575ead9ec27ea415e492b42ee&mc=true&tpl=/ecfrbrowse/Title48/48cfr952_main_02.tpl |
| DEAR 970 clauses: | https://www.ecfr.gov/cgi-bin/text-idx?SID=838834e575ead9ec27ea415e492b42ee&mc=true&tpl=/ecfrbrowse/Title48/48cfr970_main_02.tpl |
- (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.

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
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 52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements - Representation - (Jan 2017)	Solicitation Provision that applies in all solicitations, except in solicitations for a personal services subcontract with an individual if the services are to be performed entirely by the individual.
FAR 52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)	Applies in all solicitations and resultant subcontracts, other than personal services subcontracts with individuals.
FAR 52.204-23	Prohibition On Contracting For Hardware, Software, And Services Developed Or Provided By Kaspersky Lab An Other Covered Entities (Jul 2018)	Applies in all subcontracts, including subcontracts for the acquisition of commercial items.
FAR 52.222-50	Combating Trafficking in Persons (Mar 2015)	Applies in all subcontracts and in all contracts with agents (as defined in FAR 52.222-50). The requirements in paragraph (h) of this clause apply only to any portion of a subcontract that— (A) 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 (B) Has an estimated value that exceeds \$500,000.
FAR 52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2017)	Applies in subcontracts for commercial items, as that term is defined in FAR subpart 2.101.
FAR 52.227-3	Patent Indemnity (Apr 1984)	Applies in subcontracts that may result in the delivery of commercial items, as that term is defined in 48 CFR subpart 2.1.
FAR 52.244-6	Subcontracts for Commercial Items (Aug 2018)	
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	Applies in all subcontracts, except those described in paragraph (e)(4) of FAR 52.247-64.
DEAR 952.204-71	Sensitive Foreign Nations Controls (Mar 2011)	Applies in any subcontract which may involve making unclassified information about nuclear technology available to sensitive foreign nations. When applicable, contact CONTRACTOR to get a list of Sensitive Foreign Nations.
DEAR 952.208-70	Printing (Apr 1984)	
DEAR 970.5225-1	Compliance with Export Control Laws and Regulations (Nov 2015)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-21	Prohibition of Segregated Facilities (Apr 2015)	Applies when FAR 52.222-26 Equal Opportunity is applicable.
FAR 52.222-26	Equal Opportunity (Sep 2016)	Applies unless one of the exemptions listed in FAR Subpart 22.807(b) is applicable.
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applies in subcontracts 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.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving.(Aug 2011)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$15,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-36	Equal Opportunity for Workers with Disabilities (Jul 2014)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$100,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.227-1	Authorization and Consent.(Dec 2007) Alternate I (Apr 1984)	
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2000)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$150,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-35	Equal Opportunity for Veterans (Oct 2015)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-37	Employment Reports on Veterans (Feb 2016)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$150,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-7	Anti-Kickback Procedures (May 2014)	Paragraph (c) (1) is deleted.
FAR 52.203-12	Limitation On Payments To Influence Certain Federal Transactions (Oct 2010)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$250,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-6	Restriction on Subcontractor Sales to the Government (Sep 2006)	Alternate I (Oct 1995) is also applicable if subcontract is for commercial items.
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	
FAR 52.219-8	Utilization of Small Business Concerns (Nov 2016)	Applies if subcontract offers further subcontracting opportunities and is to be performed within the United States and its outlying areas. If applicable and the subcontract exceeds \$700,000, SUBCONTRACTOR shall include FAR 52.219-8 in its lower tier subcontracts (except subcontracts to small business concerns) that offer further subcontracting possibilities.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$700,000, THE SUBCONTRACTOR IS A LARGE BUSINESS, AND FAR 52.219-8 IS APPLICABLE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.219-9	Small Business Subcontracting Plan (Aug 2018), Alternate II (Nov 2016)	Applies in subcontracts to other than small business concerns that offer subcontracting possibilities, and are expected to exceed \$700,000 Subcontracting plans are not required when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items.

THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015)	Applies only in subcontracts that have a value in excess of \$5.5 million and 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 52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)	Applies only in subcontracts for commercial items (other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.
FAR 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)	Applies in solicitations and subcontracts, other than a subcontract for commercially available off-the-shelf (COTS) items, where the subcontract value exceeds \$35,000.
FAR 52.223-7	Notice of Radioactive Materials (Jan 1997)	Applies if items containing either (1) radioactive material (requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended) or (2) other radioactive material (not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries) are to be delivered or serviced under this subcontract. If applicable, SUBCONTRACTOR shall notify CONTRACTOR, in writing, 30 days prior to delivery of, or prior to completion of any servicing required by this subcontract.
FAR 52.223-11	Ozone-Depleting Substances (May 2001)	Applies in solicitations and subcontracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances that will be performed within the United States and its outlying areas.
FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors. (DEC 2013)	Applies only to subcontracts with Small Business Concerns.
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.