

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) As used in the clauses, the term "contract" shall mean this subcontract; the term "Contractor" shall mean SUBCONTRACTOR; the term "subcontractor" shall mean the SUBCONTRACTOR'S lower-tier subcontractors, and the terms "Government" and "Contracting Officer" shall mean CONTRACTOR, except in FAR clause 52.227-14, and DEAR clauses 952.227-11, 952.227-13, 970.5227-4, and 970.5232-3, in which clauses "Government" shall mean the United States Government and "Contracting Officer" shall mean the DOE/NNSA Contracting Officer for Prime Contract DE-AC52-06NA25396 with CONTRACTOR. Notwithstanding the foregoing substitutions, all references to "Government property", "Government-owned property", "Government-furnished property", and statements relating to the vesting of title in the Government retain their customary meaning and effect. As used in DEAR clauses 952.204-72 and 952.227-9, the term "DOE" shall mean DOE/NNSA or CONTRACTOR.
- (d) The modifications of these clause terms are intended to appropriately identify the parties and establish their contractual and administrative reporting relationship, and shall not apply to the extent they would affect the U.S. Government's rights. SUBCONTRACTOR shall include the listed clauses in its subcontracts at any tier, to the extent applicable.
- (e) 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 REGARDLESS OF THE SUBCONTRACT CEILING:		
Clause Number	Title and Date	Additional Conditions of Applicability
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.

THE FOLLOWING CLAUSES APPLY REGARDLESS OF THE SUBCONTRACT CEILING:		
Clause Number	Title and Date	Additional Conditions of Applicability
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 52.215-23	Limitations on Pass-Through Charges (Oct 2009)	
FAR 52.216-7	Allowable Cost And Payment (Jun 2013)	In subcontracts with educational institutions replace FAR Subpart 31.2 in paragraph (a) with FAR Subpart 31.3. In subcontracts with nonprofit organizations replace FAR Subpart 31.2 in paragraph (a) with FAR Subpart 31.7.
FAR 52.216-15	Predetermined Indirect Costs Rates (Apr 1998)	
FAR 52.222-50	Combating Trafficking In Persons (Mar 2015)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101.
FAR 52.222-54	Employment Eligibility Verification (Oct 2015)	Applies if subcontract includes work performed in the United States
FAR 52.223-3	Hazardous Material Identification And Material Safety Data (Jan 1997) and Alternate I (Jul 1995)	Applies only 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 52.225-13	Restrictions On Certain Foreign Purchases (Jun 2008)	
FAR 52.227-10	Filing of Patent Applications - Classified Subject Matter (Dec 2007)	Applies where the nature of the work reasonably might be expected to result in a patent application containing classified subject matter.
FAR 52.227-14	Rights In Data-General (May 2014) including Alternate I (Dec 2007), Alternate V (Dec 2007), and DEAR 927.409 Paragraph (d)(3)	Applies if the subcontract is for development work, or for basic and applied research where computer software <u>is specified</u> as a deliverable in the Statement of Work or other special circumstances apply as specified in the agreement.
FAR 52.227-14	Rights In Data-General (May 2014) including Alternate IV (Dec 2007) and DEAR 927.409, subparagraph (a) Definitions	Applies if the subcontract is for basic or applied research and computer software <u>is not specified</u> as a deliverable in the Statement of Work, and no other special circumstances apply per DEAR 927.409.
FAR 52.227-23	Rights To Proposal Data (Technical) (Jun 1987)	Applies if subcontract is based on consideration of a technical proposal.
FAR 52.228-5	Insurance—Work on a Government Installation (Jan 1997)	Applies in subcontracts that require work on a Government installation.
FAR 52.229-10	State Of New Mexico Gross Receipts And Compensating Tax (Apr 2003)	Applies if (1) the subcontract is for services to be performed, in whole or in part, within New Mexico; (2) SUBCONTRACTOR is to acquire tangible personal property as a direct cost under the subcontract; and (3) title to such property passes directly to the United States upon delivery of the property by the vendor.
FAR 52.232-20	Limitation Of Cost (Apr 1984)	Applies if the Subcontract is fully funded at time of award.
FAR 52.232-22	Limitation Of Funds (Apr 1984)	Applies if the Subcontract is incrementally funded.
FAR 52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	
FAR 52.242-15	Stop-Work Order (Aug 1989) with Alternate I (Apr 1984)	
FAR 52.243-2	Changes—Cost-Reimbursement (Aug 1987) with Alternate V (Apr 1984)	
FAR 52.244-2	Subcontracts (Oct 2010) with Alternate I (June 2007)	Insert in paragraph (d): "Any subcontract or purchase order for other than "commercial items" exceeding the simplified acquisition threshold. ("Commercial item" has the meaning contained in FAR 52.202-1, Definitions.)

THE FOLLOWING CLAUSES APPLY REGARDLESS OF THE SUBCONTRACT CEILING:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.244-6	Subcontracts For Commercial Items (Aug 2018)	
FAR 52.245-1	Government Property (Jan 2017) with Alternate II (Apr 2012)	Applies to subcontracts for basic or applied research awarded to nonprofit institutions of higher education or nonprofit organizations whose primary purpose is the conduct of scientific research.
FAR 52.245-9	Use And Charges (Apr 2012)	
FAR 52.246-9	Inspection Of Research And Development (Short Form) (Apr 1984)	
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 52.249-5	Termination For Convenience Of The Government (Educational And Other Nonprofit Institutions) (Aug 2016)	Paragraph (h) is deleted, and the period for submitting SUBCONTRACTOR'S termination settlement proposal in paragraph (d) is reduced to 6 months.
DEAR 952.204-71	Sensitive Foreign Nations Controls (Mar 2011)	Applies if SUBCONTRACTOR may make unclassified information about nuclear technology available to certain sensitive foreign nations. When applicable, contact CONTRACTOR to get a list of Sensitive Foreign Nations.
DEAR 952.208-70	Printing (Apr 1984)	
DEAR 952.217-70	Acquisition Of Real Property (Mar 2011)	Applies if the subcontract involves leased space that is reimbursed.
DEAR 952.227-9	Refund Of Royalties (Mar 1995)	Applies in solicitations and subcontracts for experimental, research, developmental, or demonstration work in which royalties of more than \$250 are paid by the subcontractor or a subcontractor of any tier.
DEAR 952.227-11	Patent Rights - Retention By The Contractor (Short Form) (Mar 1995)	Applies only if SUBCONTRACTOR is a nonprofit organization as defined in 48 CFR 27.301. If SUBCONTRACTOR does not qualify in accordance with 48 CFR 27.301, it may request a patent waiver pursuant to 10 CFR 784.
DEAR 952.227-13	Patent Rights – Acquisition By The Government (Sep 1997)	Applies unless SUBCONTRACTOR is a domestic small business or nonprofit organization as defined at 48 CFR 27.301, and the Subcontractor has not received an advance waiver in accordance with DEAR 952.227-84.
DEAR 952.235-71	Research Misconduct (Jul 2005)	Applies in subcontracts that involve research.
DEAR 952.247-70	Foreign Travel (Dec 2000)	Applies if foreign travel may be required.
DEAR 970.5225-1	Compliance with Export Control Laws and Regulations (Nov 2015)	
DEAR 970.5232-3	Accounts, Records, And Inspection (Dec 2010) Only paragraphs (a) through (h) of the clause are applicable.	Paragraph (b) is deleted in its entirety and the following is substituted in its place: "Inspection and audit of accounts and records. All books of account and records relating to this subcontract shall be subject to inspection and audit by CONTRACTOR, NNSA or their designees, at all reasonable times, before and during the period of retention provided for in paragraph (d) of this clause, and SUBCONTRACTOR shall afford CONTRACTOR and NNSA proper facilities for such inspection and audit."

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-21	Prohibition Of Segregated Facilities (Apr 2015)	Applies if FAR 52.222-26 Equal Opportunity is applicable.
FAR 52.222-26	Equal Opportunity (Sept 2016)	Applies unless one of the exemptions listed in FAR Subpart 22.807 is applicable.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applies in subcontracts that exceed \$10,000 and 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.
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving.(Aug 2011)	

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING 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 in solicitations and contracts that exceed or are expected to exceed \$15,000, except when— (1) Both the performance of the work and the recruitment of workers will occur outside the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island; or (2) The Director of OFCCP or agency head has waived, in accordance with 22.1403(a) or 22.1403(b) all the terms of the clause.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING IS \$150,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
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 IF THE SUBCONTRACT CEILING EXCEEDS \$100,000:		
Clause Number	Clause Number	Additional Conditions of Applicability
FAR 52.227-1	Authorization and Consent (Dec 2007) Alternate I (Apr 1984)	
DEAR 970.5227-4	Authorization And Consent (Aug 2002)	Only paragraph (a) is applicable.
DEAR 970.5227-5	Notice And Assistance Regarding Patent And Copyright Infringement (Dec 2000)	

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING IS \$150,000 OR MORE:		
Clause Number	Clause Number	Additional Conditions of Applicability
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 IF THE SUBCONTRACT CEILING EXCEEDS \$150,000:		
Clause Number	Clause Number	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 (Sep 2007)	
FAR 52.222-35	Equal Opportunity For Veterans (Sep 2015)	Applies in solicitations and contracts if the expected value is \$150,000 or more, except when— (i) Work is performed outside the United States by employees recruited outside the United States; or (ii) The Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, has waived, in accordance with 22.1305(a), or the head of the agency has waived, in accordance with 22.1305(b), all of the terms of the clause.

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING EXCEEDS \$250,000:		
Clause Number	Clause Number	Additional Conditions of Applicability
FAR 52.203-5	Covenant Against Contingent Fees (May 2014)	Applies only if subcontract is for non-commercial items.
FAR 52.203-6	Restrictions On Subcontractor Sales To The Government (Sep 2006)	Alternate I (Oct 1995) is also applicable if subcontract is for commercial items.
FAR 52.203-7	Anti-Kickback Procedures (May 2014)	Paragraph (c)(1) is not applicable.
FAR 52.203-10	Price Or Fee Adjustment For Illegal Or Improper Activity (May 2014)	Applies only if subcontract is for non-commercial items. When applicable, in paragraph (d) the term "Government" means "Government or CONTRACTOR."
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 in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold unless— (1) A personal services contract is contemplated (see FAR 37.104); or (2) The contract, together with all of its subcontracts, will be performed entirely outside of the United States and its outlying areas.

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT CEILING EXCEEDS \$500,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.227-16	Additional Data Requirements (Jun 1987)	

THE FOLLOWING CLAUSE APPLIES IF THE SUBCONTRACT CEILING EXCEEDS \$700,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.219-9	Small Business Subcontracting Plan (Aug 2018)	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 IF THE SUBCONTRACT CEILING EXCEEDS \$2,000,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.215-10	Price Reduction For Defective Certified Cost Or Pricing Data (Aug 2011)	Applies in solicitations and subcontracts when it is contemplated that certified cost or pricing data will be required from the subcontractor or any lower-tier subcontractor (i.e., when none of the exceptions to certified cost or pricing data requirements contained in FAR 15.403-1(b) are applicable).
FAR 52.215-11	Price Reduction For Defective Certified Cost Or Pricing Data-Modifications (Aug 2011)	Applies in solicitations and subcontracts when it is contemplated that certified cost or pricing data will be required from the subcontractor or any lower-tier subcontractor for the pricing of subcontract modifications, and FAR 52.215-10, Price Reduction for Defective Certified Cost or Pricing Data, has not been included.
FAR 52.215-12	Subcontractor Certified Cost Or Pricing Data (Oct 2010)	Applies in solicitations and subcontracts when it is contemplated that certified cost or pricing data will be required from the subcontractor or any lower-tier subcontractor (i.e., when none of the exceptions to certified cost or pricing data requirements contained in FAR 15.403-1(b) are applicable).

THE FOLLOWING CLAUSES APPLY IF THE SUBCONTRACT CEILING EXCEEDS \$2,000,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.215-13	Subcontractor Certified Cost Or Pricing Data - Modifications (Oct 2010)	Applies in each subcontract that exceeds the threshold for submission of certified cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.
FAR 52.230-2	Cost Accounting Standards (Oct 2015), excluding paragraph (b)	Applies to <u>non-profit organizations</u> unless the subcontract is: (1) exempted from CAS (see 48 CFR 9903.201-1 (FAR Appendix)), or (2) subject to modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)) or (3) awarded to a foreign concern or (4) awarded to an educational institution. When applicable, paragraph (b) is deleted and SUBCONTRACTOR shall include the substance of this clause, without paragraph (b), in all other subcontracts of any tier.
FAR 52.230-3	Disclosure And Consistency Of Cost Accounting Practices (Oct 2015), excluding paragraph (b)	Applies in negotiated subcontracts when the subcontract amount is over \$2,000,000, but less than \$50 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)), unless FAR 52.230-4, Disclosure and Consistency of Cost Accounting Practices - Foreign Concerns, is applicable.
FAR 52.230-4	Disclosure and Consistency of Cost Accounting Practices -- Foreign Concerns (Oct 2015)	Applies only to a negotiated subcontract with a foreign concern, unless the subcontract is otherwise exempt from CAS (see 48 CFR 9903.201-1). Foreign concerns do not include foreign governments or their agents or instrumentalities.
FAR 52.230-5	Cost Accounting Standards - Educational Institutions (Aug 2016), excluding paragraph (b)	Applies to negotiated subcontracts <u>awarded to educational institutions</u> unless: (1) subcontract is exempted (see 48 CFR 9903.201-1 (FAR Appendix)), (2) the subcontract is to be performed by an FFRDC (see 48 CFR 9903.201-2(c)(5) (FAR Appendix)), or (3) the provision at 48 CFR 9903.201-2(c)(6) (FAR Appendix) applies.
FAR 52.230-6	Administration Of Cost Accounting Standards (Jun 2010)	Applies if FAR 52.230-2, 52.230-3, 52.230-4 or 52.230-5 is applicable.
DEAR 970.5204-3	Access To And Ownership Of Records (Jul 2005)	Applies to cost-reimbursement type subcontracts whose value is greater than \$2,000,000 or that include DEAR 970.5223-1, Integration of Environment, Safety and Health into Work Planning and Execution.

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 52.203-14	Display of Hotline Poster(s) (Oct 2015)	Applies in all subcontracts that exceed \$5.5 million, except when subcontract (1) is for the acquisition of a commercial item; or (2) is performed entirely outside the United States.
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 Recovery Act.
FAR 52.203-16	Preventing Personal Conflicts of Interest (Dec 2011)	Applies in all subcontracts that exceed \$150,000 and in which subcontractor employees will perform acquisition functions closely associated with inherently governmental functions (i.e., instead of performance only by a self-employed individual).
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.

THE FOLLOWING CLAUSES APPLY AS STATED IN THE CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Conditions of Applicability
FAR 52.222-24	Preaward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)	Solicitation provision that applies in solicitations, other than those for construction, when a subcontract is contemplated that will include the clause at 52.222-26, Equal Opportunity, and the amount of the subcontract is expected be \$10 million or more.