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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT** | | | | | | | | | | | 1. CONTRACT ID CODE | | | PAGES OF PAGES | | | |
| 1 | | 67 | |
| 2. AMENDMENT/MODIFICATION NO.  **Mass Modification 0008** | | | | 3. EFFECTIVE DATE | | | | 4. REQUISITION/PURCHASE REQ. NO. | | | | 5. PROJECT NO. *(If applicable)* | | | | | |
| 6. ISSUED BY: CODE: | | | | | 003B6B | | | 7. ADMINISTERED BY *(If other than Item 6)* CODE: | | | | | | |  | | |
| Department of Veterans Affairs  National Acquisition Center  P.O. Box 76, Bldg. 37  Hines, IL 60141 | | | | | | |  | | | | | | | | | |
| 8. NAME AND ADDRESS OF CONTRACTOR *(No., street, county, State and ZIP Code)* | | | | | | | | | (X) | 9A. AMENDMENT OF SOLICITATION NUMBER | | | | | | | |
|
| 9B. DATED *(SEE ITEM 11)* | | | | | | | |
|
| X | 10A. MODIFICATION OF CONTRACT/ORDER NUMBER | | | | | | | |
| 10B. DATED *(SEE ITEM 13)* | | | | | | | |
| CODE | | FACILITY CODE | | | | | | |
| 11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS | | | | | | | | | | | | | | | | | |
| The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers  is extended  is not extended.  Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:  (a) By completing Items 8 and 15, and returning     copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted;  or (c) By separate letter or electronic communication which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGEMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by letter or electronic communication, provided each letter or electronic communication makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified. | | | | | | | | | | | | | | | | | |
| 12. ACCOUNTING AND APPROPRIATION DATA *(If required)* | | | | | | | | | | | | | | | | | |
| **13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS.**  **IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.** | | | | | | | | | | | | | | | | | |
| (x) | A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: *(Specify authority)* THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A. | | | | | | | | | | | | | | | | |
|  | B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES *(such as changes in paying office,* *appropriation date, etc.)* SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b). | | | | | | | | | | | | | | | | |
| X | C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:  52.212-4(c) Contract Terms and Conditions - Commercial Items (Changes) | | | | | | | | | | | | | | | | |
|  | D. OTHER *(Specify type of modification and authority)* | | | | | | | | | | | | | | | | |
| E. **IMPORTANT**: Contractor  is not,  is required to sign this document and return  1 copies to the issuing office. | | | | | | | | | | | | | | | | | |
| 14. DESCRIPTION OF AMENDMENT/MODIFICATION (*Organized by UCF section headings, including solicitation/contract subject matter where feasible.)*  **65 II C SCHEDULE UPDATES**  This modification is issued to incorporate the following changes into the above-referenced contract pursuant to Amendment 0003 issued under 65 II C solicitation number 797-652C-04-0001-R3. Please see the table of new and old references beginning on page 2, followed by the full text of additions and revisions.  **1)** Adds 52.219-33 Nonmanufacturer Rule (Mar 2020) and General Terms and Conditions Applicable to Leasing (Dec 2020)  **2)** Revises FAR and GSAR regulations and Scope of Solicitation (Dec2020) | | | | | | | | | | | | | | | | | |
| Except as provided herein, all terms and conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect. | | | | | | | | | | | | | | | | | |
| 15A. NAME AND TITLE OF SIGNER *(Type or print)* | | | | | | 16A. NAME AND TITLE OF CONTRACTING OFFICER *(Type or print)* | | | | | | | | | | | |
| 15B. CONTRACTOR/OFFEROR  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *(Signature of person authorized to sign)* | | | 15C. DATE SIGNED | | | 16B. UNITED STATES OF AMERICA  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  *(Signature of Contracting Officer)* | | | | | | | 16C. DATE SIGNED | | | | |
| EXCEPTION TO SF 30 STANDARD FORM 30 (REV. 11/2016)  APPROVED BY OIRM 11-84 Prescribed by GSA FAR (48 CFR) 53.243 | | | | | | | | | | | | | | | | | |

**SUMMARY OF CHANGES, REFERENCING THE NEW AND OLD VERSIONS OF REGULATIONS AND SPECIAL LANGUAGE**

| **NEW REFERENCE** | **OLD REFERENCE** |
| --- | --- |
| **52.202-1** Definitions (Jun 2020) | **52.202-1** Definitions (Nov 2013) |
| **52.203-6** Restrictions on Subcontractor Sales to the Government (Jun 2020, Alt I - Oct 1995) | **52.203-6** Restrictions on Subcontractor Sales to the Government (Sep 2006, Alt I - Oct 1995) |
| **52.203-13** Contractor Code of Business Ethics and Conduct (Jun 2020) | **52.203-13** Contractor Code of Business Ethics and Conduct (Oct 2015) |
| **52.203-17** Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Jun 2020) | **52.203-17** Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014) |
| **52.204-10** Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) | **52.204-10** Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2018) |
| **52.204-18** Commercial and Government Entity Code Maintenance (Aug 2020) | **52.204-18** Commercial and Government Entity Code Maintenance (Jul 2016) |
| **52.204-25** Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020) | **52.204-25** Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2019) |
| **52.209-6** Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Jun 2020) | **52.209-6** Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) |
| **52.212-5** Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (Nov 2020, Notes) | **52.212-5** Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (Jan 2020, Notes) |
| **52.215-21** Requirements for Certified Cost or Pricing Data and Information Other than Certified Cost or Pricing Data - Modifications (Jun 2020, Alternate IV – Oct 2010) | **52.215-21** Requirements for Certified Cost or Pricing Data and Information Other than Certified Cost or Pricing Data - Modifications (Oct 2010, Alternate IV – Oct 2010, Tailored) |
| **52.216-18** Ordering (Aug 2020, Notes) | **52.216-18** Ordering (Oct 1995, Deviation II – Feb 2007, Notes) |
| **52.219-3** Notice of HubZone Set-Aside or Sole Source Award (Mar 2020, Note) | **52.219-3** Notice of HubZone Set-Aside or Sole Source Award (Nov 2011, Note) |
| **52.219-6** Notice of Total Small Business Set-Aside (Nov 2020, Note) | **52.219-6** Notice of Total Small Business Set-Aside (Nov 2011, Note) |
| **52.219-9** Small Business Subcontracting Plan (Jun 2020, Alternate II – Nov 2016) | **52.219-9** Small Business Subcontracting Plan (Aug 2018, Alternate II – Nov 2016, Note) |
| **52.219-13** Notice of Set-Aside Orders (Mar 2020, Note) | **52.219-13** Notice of Set-Aside Orders (Nov 2011, Note) |
| **52.219-14** Limitations on Subcontracting (Mar 2020, Note) | **52.219-14** Limitations on Subcontracting (Jan 2017, Note) |
| **52.219-27** Notice of Service-Disabled Vet-Owned Small Business Set-Aside (Mar 2020, Note) | **52.219-27** Notice of Service-Disabled Vet-Owned Small Business Set-Aside (Oct 2019, Note) |
| **52.219-28** Post-Award Small Business Program Rerepresentation (Nov 2020) | **52.219-28** Post-Award Small Business Program Rerepresentation (July 2013) |
| **52.219-29** Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Mar 2020, Note) | **52.219-29** Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Dec 2015, Note) |
| **52.219-30** Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Mar 2020, Note) | **52.219-30** Notice of Set-Aside for Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Dec 2015, Note) |
| **52.219-33** Nonmanufacturer Rule (Mar 2020) | ***ADDED*** |
| **52.222-35** Equal Opportunity for Veterans (Jun 2020) | **52.222-35** Equal Opportunity for Veterans (Oct 2015) |
| **52.222-36** Equal Opportunity for Workers with Disabilities (Jun 2020) | **52.222-36** Equal Opportunity for Workers with Disabilities (Jul 2014) |
| **52.222-37** Employment Reports on Veterans (Jun 2020) | **52.222-37** Employment Reports on Veterans (Feb 2016) |
| **52.222-50** Combating Trafficking in Persons (Oct 2020) | **52.222-50** Combating Trafficking in Persons (Jan 2019) |
| **52.222-55** Minimum Wages under Executive Order 13658 (Nov 2020, Note) | **52.222-55** Minimum Wages under Executive Order 13658 (Dec 2015, Note) |
| **52.223-18** Encouraging Contractor Policies to Ban Text Messaging while Driving (Jun 2020) | **52.223-18** Encouraging Contractor Policies to Ban Text Messaging while Driving (Aug 2011) |
| **52.252-6** Authorized Deviations in Clauses (Nov 2020) | **52.252-6** Authorized Deviations in Clauses (Apr 1984) |
| **552.238-77** Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists (Mar 2020, Tailored) | **552.238-77** Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists (May 2019, Tailored) |
| **552.238-80**  Industrial Funding Fee and Sales Reporting (Jul 2020, Tailored, Notes) | **552.238-80**  Industrial Funding Fee and Sales Reporting (May 2019, Tailored, Notes) |
| **552.238-82** Modification (Federal Supply Schedule)(Mar 2020, Alternate I – May 2019, Tailored, Notes) | **552.238-82** Modification (Federal Supply Schedule)(May 2019, Alternate I – May 2019, Tailored, Notes) |
| General Terms and Conditions Applicable to Leasing (Dec 2020) | ***ADDED*** |
| **I-FSS-600** Contract Price Lists (Oct 2020, Tailored) | **I-FSS-600** Contract Price Lists (Oct 2016, Tailored) |
| Scope of Solicitation (Dec 2020) | Scope of Solicitation (Nov 2018) |

**ADDED REGULATIONS AND SPECIAL LANGUAGE**

**52.219-33 NONMANUFACTURER RULE (MAR 2020)**

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Applicability.* This clause applies to—

(1) Contracts that have been set aside, in total or in part;

(2) Orders under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F) that have been set aside for any of the small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3); and

(3) Orders issued directly to any of the small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3) under multiple-award contracts as described in [19.504](https://www.acquisition.gov/far/part-19#FAR_19_504)(c)(1)(ii).

(c)  (1) The Contractor shall—

(i)  (A) Provide the end item of a small business manufacturer, or if set aside or awarded on a sole source basis to a HUBZone small business, provide the end item of a HUBZone small business manufacturer, that has been manufactured or produced in the United States or its outlying areas; or

(B) If this procurement is an order as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) or [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F) or processed under simplified acquisition procedures (see [part  13](https://www.acquisition.gov/far/part-13#FAR_Part_13)), and the total amount does not exceed $25,000, provide the end item of any domestic manufacturer;

(ii) Not exceed 500 employees;

(iii) Be primarily engaged in the retail or wholesale trade and normally sell the type of item being supplied; and

(iv) Take ownership or possession of the item(s) with its personnel, equipment, or facilities in a manner consistent with industry practice.

(2) In addition to the requirements set forth in paragraph (c)(1) of this clause, when the end item being acquired is a kit of supplies or other goods, 50 percent of the total value of the components of the kit shall be manufactured in the United States or its outlying areas by small business concerns. Where the Government has specified an item for the kit which is not produced by U.S. small business concerns, such items shall be excluded from the 50 percent calculation. See [13 CFR 121.406](https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-sec121-406.xml)(c) for further information regarding nonmanufacturers.

(3) For size determination purposes, there can be only one manufacturer of the end product being acquired. For the purposes of the nonmanufacturer rule, the manufacturer of the end product being acquired is the concern that transforms raw materials and/or miscellaneous parts or components into the end product. Firms which only minimally alter the item being procured do not qualify as manufacturers of the end item, such as firms that add substances, parts, or components to an existing end item to modify its performance, will not be considered the end item manufacturer, where those identical modifications can be performed by and are available from the manufacturer of the existing end item. See [13 CFR 121.406](https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-sec121-406.xml) for further information regarding manufacturers.

**GENERAL TERMS AND CONDITIONS APPLICABLE TO LEASING (DEC 2020)**

1. **STATEMENT OF GOVERNMENT INTENT**
   1. For the purpose of this solicitation, a leasing arrangement is defined as a contractual arrangement by which the Government agrees to pay for the use of equipment/supplies for a specified period, under agreed to terms and conditions. Generally, a leasing arrangement would be utilized if the Government has a long-term need (e.g. 12 months or more) and if prices are likely to increase during the duration of the Government need. A lease term is defined as the duration of the lease in months (not to exceed 60 months) as shown on the Ordering Agency’s initial delivery order. It is understood by all parties that resulting contract(s) may contain leasing arrangements. In that regard, the Government anticipates fulfilling a leasing arrangement subject to the availability of appropriated funds and the continued needs of the Ordering Agency.
   2. The Ordering Agency, upon issuance of any delivery order containing line items for equipment leasing, intends to use the equipment for the lease term specified in the initial delivery order so long as the needs of the Ordering Agency for the equipment or functionally similar equipment continue to exist, and the funds are available. Each lease hereunder shall be initiated by a delivery order which shall, either through a statement of work or other attachment, specify the equipment being leased and the terms of the transaction. The lease commencement is the date of acceptance as defined by FAR Subpart 12.4. The first period or initial term of the leasing arrangement will be through September 30th of the fiscal year in which the order is placed, or as extended by act of Congress, unless the ordering office has multi-year funding. This period shall be documented in the delivery order.
   3. Ordering Agencies are advised to do the following when considering a leasing arrangement:
      1. Follow the guidance provided in Federal Acquisition Regulation (FAR) Subpart 7.4 Equipment Lease or Purchase.
      2. Determine, when applicable, if a leasing or rental arrangement is most advantageous to the Government. Please note that it is advised that factors such as the duration of the need, pricing volatility, etc. should be considered when determining whether to utilize a leasing or a rental arrangement.
      3. Obligate funding consistent with fiscal law when entering into any leasing arrangement and review the lease terms and conditions prior to ordering and obligating funding for a lease.
2. **ORDERING PROCEDURES**
   1. Ordering Agencies must comply with all requirements and conduct a needs assessment prior to any procurement as required by FAR, any applicable FAR supplements, or local guidance.
   2. When the Ordering Agency expresses an interest in leasing equipment, the Ordering Agency will provide at a minimum the following information to the prospective vendors:
      1. A detailed description of the equipment required, including the quantity needed
      2. The required delivery date,
      3. The proposed term of the lease (time period for the lease),
      4. Where the equipment is to be located and utilized, and
      5. A description of the intended use of the equipment.
   3. The Contractor will respond with:
      1. Whether the Contractor can meet the terms outlined by the Ordering Agency,
      2. The monthly payment based on the term requested and the initial and residual values of the equipment,
      3. The estimated cost, if any, of applicable state or local taxes (See FAR Clause 52.229-1),
      4. The extent of warranty coverage of the leased equipment,
      5. The cost of any maintenance, as applicable, and
      6. The proposed termination ceiling charges, as applicable. (See Section XIII, Early Termination Charges).
   4. The Ordering Agency and Contractor shall agree upon a termination ceiling charge which is established in accordance with the appropriate formula in Section 13. Early termination charges shall not include termination penalties to the Government.
   5. The Contracting Officer shall insert the agreed upon termination ceiling charge for the first year in the order and, if agreed to by the Contractor at time of order, establish the ceiling for all successive years unless modified based on availability of funds.
3. **ORDERS AND PERIOD OF LEASE ARRANGEMENTS**
   1. **Lease Options:** Ordering Agencies placing orders for equipment under a leasing arrangement must specify on the delivery order each element of II.(b) above.
      1. **Lease to Own (LTO) –** A type of lease used for long-term leases and for items that do not become technologically obsolete and the Ordering Agency desires to take ownership. This lease type generally has at least one of the following conditions:
   2. There is an ownership transfer to the lessee at the end of the lease;
   3. The lease contains a bargain purchase option that allows for the acquisition of the equipment, at the end of the lease, for a price less than fair market value; and/or
   4. The lease life exceeds 75% of the asset's economic life
      1. **Operating Lease (OL) –** A type of lease used for short-term leasing and often for assets in which the technology changes. An Operating lease may contain an option, but not an obligation, to buy the leased equipment.
   5. **Annual Year Funding:**  When using annually appropriated funds to place an order that includes leasing, the following applies:
      1. The Ordering Agency cannot normally commit to a term longer than one fiscal year at the commencement of the lease. To facilitate the exercise of renewal options for future fiscal years, the lease term will be specified in the delivery order. All orders for leasing shall remain in effect through the Government fiscal year (or as extended by Act of Congress) or the planned expiration date of the lease, whichever is earlier, unless the Ordering Agency exercises its rights hereunder to acquire title to the equipment prior to the planned expiration date. Despite the fact that the delivery order will specify the planned total lease term, orders with leasing arrangements shall not be deemed to obligate succeeding fiscal year’s funds or to otherwise commit the Ordering Agency to a renewal of said leasing arrangements.
      2. The Government may unilaterally renew a leasing arrangement for the upcoming fiscal year by written notice to the Contractor at least 30 calendar days prior to expiration of the current lease year or a by mutual agreement of the parties if less than 30 days’ notice is provided. All leasing arrangements, unless renewed by the Ordering Agency or extended by an Act of Congress, terminate at the end of the Government fiscal year. Ordering Agencies are instructed to follow the guidelines set forth in Paragraph XIV of this section with regard to termination of lease terms for non-appropriation or agency decisions not to renew. Should Ordering Agencies decide to terminate the lease prior to the expiration of the lease term under any other condition other than those set forth in Paragraph XIV, early termination charges shall apply (see Section XIII, Early Termination).
   6. **Multi- Year Funding within Contract Period:** Where an Ordering Agency’s specific appropriation authority provides for funds in excess of a 12 month (fiscal year) period, the Ordering Agency may place a schedule contract order for leasing for a period up to the expiration of its period of appropriation availability or the expiration of the contract period, whichever comes first, notwithstanding the intervening fiscal years.
   7. In recognition of the types of products on this Schedule and the potential adverse impact to the Government’s mission, the Government’s quiet and peaceful possession and unrestricted use of the equipment shall not be disturbed in the event the equipment is sold by the Contractor, or in the event of bankruptcy of the contractor, corporate dissolution of the Contractor, or other event, so long as the Government is not in default. The equipment shall remain in the possession of the Government until the expiration of the lease. Any assignment, sale, bankruptcy, or other transfer of the leased equipment by the Contractor will not relieve the Contractor of its obligations to the Government and will not change the Government’s duties or increase the burdens or risks imposed on the Government.
   8. **Assignment of Claims:** In accordance with GSAR 552.232-23 Assignment of Claims under this contract, the Ordering Agency Contracting Officer may approve the assignment of claim in accordance with FAR 32.803. Contractors cannot prohibit or otherwise limit the Government’s ability to setoff lease payments under any lease or assignment of a lease.
   9. **Government Rights under Lease:** The Government does NOT waive any performance requirements, warranty rights nor other contract or statutory rights, such as the right to set off payments against other Government debt, as a part of the lease. The Government’s acceptance of an assignment of a lease does not waive any of the Government contract provisions.
4. **MAINTENANCE AND INSTALLATION**
   1. Maintenance, including, but not limited to, software updates and refreshes, and installation must be included in the lease payment if the Contractor’s normal commercial business practices include those items. The Contractor shall provide preventive maintenance at least equal to their commercial practice. Intervals between scheduled maintenance services shall be no greater than those provided to commercial customers for the same equipment.
   2. If mutually agreed by the Government and the Contractor, installation and/or maintenance may be performed by either the Contractor or the Contractor’s authorized representative(s), including Government performed installation and/or maintenance.
   3. When installation and/or maintenance are to be performed by the Contractor or the Contractor’s authorized representative(s), the payments, terms and conditions of said installation and/or maintenance will be as stated in the VA-FSS contract or, if not established at the VA-FSS contract level, in any orders under said contract.
5. **MONTHLY PAYMENTS**
   1. Prior to the placement of an order, the Ordering Agency and the Contractor must agree on a “base value” for the equipment to be leased. The base value will be the contract purchase price (CPP), less any discounts. For Operating Leases, the residual value is independent of the purchase option price. The residual value will be used in the calculation of the original lease payment.
   2. To determine the initial lease term payment, the Contractor agrees to apply a negotiated lease factor to the agreed upon base value. These lease factors are to be applied to the published contract purchase price to determine the monthly lease prices for Lease to Own and Operating Leases. Examples of the lease factors and a resultant lease factor table are provided below.
      1. Lease factor one (1) percent over the rate for the three-year (or other term) Treasury Bill (T-bill) at the most current U. S. Treasury auction; or
      2. The Contractor’s most favored finance rate factor as agreed to during contract negotiations.

**Example: Lease Factor Table – Monthly OL & LTO Rate Factors**

|  |  |  |
| --- | --- | --- |
| **Term** | **OL** | **LTO** |
| **24** | 0.04572 | 0.04745 |
| **36** | 0.03182 | 0.03330 |
| **48** | 0.02516 | 0.02600 |
| **60** | 0.02150 | 0.02250 |

* 1. The lease payment may be calculated by using a programmed business calculator or by using “rate” functions provided in commercial spreadsheets such as Microsoft Excel.
  2. The purchase option price will be based upon the unamortized principle of the equipment. The payment will be based upon the unamortized principle, as shown on the payment schedule as of the last payment prior to date of transfer of ownership. In the event the Government desires, at any time, to acquire title to equipment leased hereunder, the Government may make a one-time lump sum payment.

1. **EXPIRATION OF LEASE TERM:**

At least 30 days prior to the expiration of the lease term, the Ordering Agency will:

* 1. Coordinate the return of the Equipment to the Contractor in accordance with paragraph XVIII below,
  2. Execute ownership transfer from the lessor, if a Lease to Own lease type was utilized and said transfer is built into the terms and conditions of the contract, or
  3. Purchase the equipment at fair market value or at a bargain purchase price, depending on the type of lease utilized and the terms and conditions of the contract.

Note: Ordering Agencies are advised to see paragraph XVI - XVIII for additional lease expiration provisions.

1. **ADDITIONS**
   1. Forthe purpose of this solicitation the definition of an addition is defined as the addition of accessories, features, or other enhancements available for lease under this contract to an existing model (base unit). Additions shall not change the functionality of the installed equipment.
   2. The Ordering Agency may require the Contractor to modify existing leased equipment through order modifications, provided the modifications are customarily offered commercially by the Contractor for the equipment leased. The price of the modification will be mutually agreed upon by the Ordering Agency and the Contractor. The Ordering Agency may pay for the modification at full price upon acceptance, or the modification price may be leased coterminous with the initial lease term. The closest contract lease rate factor, with respect to the modification term duration, in effect at the time of award of the modification will be used to calculate the monthly payment applicable to the modification. Residual value should be negotiated for the modification.

**Example: Lease to Own**

* Price of the modification - $1,000
* Months remaining on the equipment lease – 19
* Current contract lease factor at the time of the modification with a term closest to the remainder of the lease is 0.45 for a 24 month lease
* Interest equivalent (i) for lease factor is 0.625% per month. To calculate this interest equivalent, the following Excel formula would be used: =rate(N,-pmt,Price). Specifically, in this example, the following would be entered into Excel: =rate(24,-0.045,1).
* Modification Payment - $55.98. To calculate this payment, the following Excel formula would be used: =PMT(i,N,P). Specifically, in this example, the following would be entered into Excel: =PMT(.00625,19,1000)
  1. The Ordering Agency may affix or install any accessory, addition, equipment or device on the equipment ("additions") provided such additions:
     1. Can be removed without causing material damage to the equipment,
     2. Do not reduce the value of the equipment, and
     3. Are obtained from or approved by the Contractor and are not subject to the interest of any third party other than the Contractor.
  2. Any other additions may not be installed without the Contractor's prior written consent. At the end of the lease term, the Government shall remove any additions which:
     1. Were not leased from the Contractor, and
     2. Are readily removable without causing material damage or impairment of the intended function, use, or value of the equipment, and restore the equipment to its original configuration.
  3. Any additions which are not removable will become the Contractor's property (lien free).
  4. Payment may be modified based on the schedule price adjusted to reflect the actual period until the end of the lease term.
  5. Should the Ordering Agency elect to replace equipment under the lease, thus terminating the lease for said equipment, a new acquisition is required. This does not preclude substitution for failure to perform. Ordering Agencies are advised that when making the decision to conduct a new acquisition consideration must be given to the early termination of existing equipment. To do so, Ordering Agencies are strongly advised to perform a cost benefit analysis in accordance with their agency procedures and policies.

1. **RISK OF LOSS OR DAMAGE**

The Government is relieved from all risk of loss or damage to the equipment during periods of transportation, installation, and during the entire time the equipment is in possession of the Government, except when loss or damage is due to the fault or negligence of the Government. The Government shall assume risk of loss or damage to the equipment during relocation unless the Contractor shall undertake such relocation. If relocation is required, the terms/cost will be negotiated at the order level.

1. **WARRANTY**

The products associated with these leasing terms shall bear the same warranties as outlined within the Contractor’s FSS Contract.

1. **EQUIPMENT PERFORMANCE**
   1. The equipment supplied must be in operational or repairable condition throughout the term of the lease.
      1. Operational condition means the equipment is performing as intended, all accessories are operating as intended, and in all respects the equipment is performing up to the standards in the manufacturer’s specifications.
      2. Repairable condition means that the equipment can be repaired by a qualified technician within the terms of the contract/order. Additionally, all required replacement parts are available and the equipment down time does not exceed that specified in the contract/order, if applicable.
      3. Downtime related to the leased items shall be negotiated and agreed upon by the Ordering Agency and the FSS contractor.
   2. After a thirty (30) day notice and cure period, communicated by the Ordering Agency to the Contractor in writing, if the equipment continues to fail to be operational or repairable as defined above, the Ordering Agency may take those remedies available to it under either the Contractor warranty provisions or termination for cause authority set forth in FAR 52.212-4(m). Such recourse will not be the basis for increasing the monthly payment or extending the term of the lease.
   3. Service and Support:
      1. Contractors are required to submit a contingency plan to maintain full and proper operation of equipment and to avoid extended delays for repair or replacement of equipment. The contingency plan shall mirror commercial practices and detail, at a minimum, service call process and response time, issuance of equivalent replacement/loaner equipment (as applicable), as well as the preventative maintenance service process and schedule.
      2. Offerors shall submit and include in their pricelist’s, a list of Names, addresses, and phone number(s) of authorized representatives, responsible to the Contractor, who may be contacted by ordering activities for repair and maintenance of equipment. Only those authorized representatives listed may render maintenance service, unless the list is subsequently modified by mutual agreement between the Contractor and the Contracting Officer to add or terminate authorized representatives
2. **TITLE**

During the lease term, the equipment shall always remain the property of the Contractor. The Government shall have no right or interest in the equipment except as provided in this leasing arrangement and shall hold the equipment subject and subordinate to the rights of the Contractor.

1. **TAXES**

Notwithstanding the terms of clause 52.229-3 Federal, State, and Local Taxes, the contract price excludes all state and local taxes levied on or measured by the contract or order price of the services or completed supplies furnished under this contract. The Contractor shall state separately on its invoices taxes excluded from the contract/order price, and the Government agrees either to pay the amount of the taxes (based on the current value of the equipment) to the Contractor or provide evidence necessary to sustain an exemption. See FAR clauses 52.229-1 State and Local Taxes.

1. **EARLY TERMINATION CHARGES** 
   1. Equipment leased under this contract/order may be terminated at any time during a Government fiscal year by the Ordering Agency’s Contracting Office responsible for the delivery order in accordance with FAR 52.212-4, paragraph (l) Termination for the Ordering Activity’s Convenience.
   2. The termination ceiling charge is a limit on the amount that a Contractor may claim from the Ordering Agency on the termination for convenience of a lease or failure to renew a lease prior to the end of the lease term for reasons other than those set forth in section XIV, Termination for Non-Appropriation. Termination ceiling charges will apply to each year of the lease term when the Government decides to terminate for convenience or chooses not to renew a lease. The Ordering Agency and Contractor shall establish a termination ceiling amount. The Contracting Officer shall insert the termination ceiling charge for amount of the first year in the order and modify it for successive years upon availability of funds.
   3. No claim will be accepted for future costs: supplies, maintenance, usage charges or interest expense beyond the date of cancellation. In accordance with the bona fide needs rule, all termination charges must reasonably represent the value the Ordering Agency received for the work performed at cancellation based upon the shorter lease term. No termination cost will be associated with the expiration of the lease term.

**Formula 1: Lease to Own (LTO)**

Termination Fee = pmt \* n - (PMT - FMV)

"P" = Schedule Price of equipment at time of order, inclusive of Ordering Agency negotiated price reductions should be considered.

"PMT" = Actual Monthly Payment paid on order to termination

"i" = Monthly Interest Rate applicable to the order

"n" = number of months from order to termination

"pmt" = Monthly payment corrected to actual lease term". Please note, to calculate this number using Excel, utilize the following formula: *=pmt(i,n,P)*

"FMV" = Fair Market Value of equipment if returned at termination. Unit price adjustments, residual or FMV values used to calculate Operating Leases, should not be considered

**Formula 2: Operating Lease (OL)**

Termination Fee Excel Formula *= PV(i, n,-PMT)*

"PV"= Present Value

"i" = Interest rate per month, equal to the interest rate applicable to the calculation of the payment on the delivery order

"n"= Number of months remaining from termination date to the end of the lease term

"PMT" = Current monthly payment amount of the original payments through end of the lease

* 1. Should the settlement amount exceed 75% of the asset’s fair market value at termination or if the lease is terminated in the last 25% of the asset’s useful life, the settlement amount shall be considered a purchase of the asset and title shall transfer to the Government. Please note, the Government reserves the right to not execute a title transfer under the aforementioned conditions.

1. **TERMINATION FOR NON-APPROPRIATION**

TheOrdering Agency reasonably believes that the bona fide need will exist for the entire lease term and corresponding funds in an amount sufficient to make all payment for the lease term will be available to the Ordering Agency. Therefore, it is unlikely that such leases will be terminated prior to the full lease term. Nevertheless, the Ordering Agency’s Contracting Officer may terminate or not renew leases at the end of any initial base period or renewal period under this paragraph if there is a continuing need, but adequate funds have not been appropriated to the Ordering Agency in an amount sufficient to continue to make the lease payments. If this occurs, the Ordering Agency will promptly notify the Contractor, and the equipment lease will be cancelled at the end of the last fiscal year for which funds were appropriated. The determination of the availability of funds is made solely by the Government.

1. **LEASE EXTENSIONS**

Extension of the present lease term is not permitted. Future equipment requirements shall be procured in accordance with FAR 8.4, FSS Ordering Procedures.

1. **LEASE EXPIRATIONS – LEASE TO OWN**

Title to equipment under a Lease to Own arrangement transfers to the Government upon conclusion of the lease term and payment of any purchase option amount, if applicable.

1. **LEASE EXPIRATIONS – OPERATING LEASE AND ALL OTHER EQUIPMENT**

Unless notified by the Ordering Agency that the Government intends to exercise its option to purchase the equipment, if applicable, upon the expiration of the lease term the equipment will be removed by the Contractor. If the Government chooses to exercise its option to purchase the equipment, the ordering office shall execute a modification to do so, utilizing the applicable fixed price purchase amount provided in the schedule contract.

1. **RETURN OF EQUIPMENT**

The Ordering Activity will work with the Contractor for the removal of the equipment. At least 30 days prior to the expiration of the lease, the Ordering Agency is required to provide serial numbers and exact location of equipment for pick up. Upon receipt of this notice the Contractor shall remove the equipment within thirty (30) days after the expiration of the lease, or at a mutually agreed date and time. Unless specified under the schedule contract, removal charges will be negotiated and administered at the Ordering Agency level. The equipment shall be in the same condition as when delivered, with the exception of ordinary wear and tear. The Contractor shall conduct a timely inspection of the returned equipment and within thirty (30) days of the return, unless a different time is negotiated at the order level, assert a claim if the condition of the equipment exceeds normal wear and tear. Equipment not removed by the Contractor within thirty (30) days of the date of notification by the Ordering Agency shall be considered as abandoned and subject to such disposal as the Government may deem appropriate, and the Contractor shall be subject to reimbursing the Government for any incurred costs associated with disposal/disposition. Contractor failure to repossess the equipment for any reason shall not result in the levying of any penalties or other charges to the Government.

**REVISED REGULATIONS AND SPECIAL LANGUAGE**

**52.202-1 DEFINITIONS (JUN 2020)**

When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101) in effect at the time the solicitation was issued, unless-

(a) The solicitation, or amended solicitation, provides a different definition;

(b) The contracting parties agree to a different definition;

(c) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning;

(d) The word or term is defined in FAR [part  31](https://www.acquisition.gov/far/part-31#FAR_Part_31), for use in the cost principles and procedures; or

(e) The word or term defines an acquisition-related threshold, and if the threshold is adjusted for inflation as set forth in FAR [1.109](https://www.acquisition.gov/far/part-1#FAR_1_109)(a), then the changed threshold applies throughout the remaining term of the contract, unless there is a subsequent threshold adjustment; see FAR [1.109](https://www.acquisition.gov/far/part-1#FAR_1_109)(d).

**52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUN 2020, Alternate I – Oct 1995)**

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in paragraph (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation. For acquisitions of commercial items, the prohibition in paragraph (a) applies only to the extent that any agreement restricting sales by subcontractors results in the Federal Government being treated differently from any other prospective purchaser for the sale of the commercial item(s).

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold, as defined in Federal Acquisition Regulation [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101) on the date of subcontract award.

**52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (JUN 2020)**

(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.

*Full cooperation*-

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors’ and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require-

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

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

(3) Does not restrict a Contractor from-

(i) Conducting an internal investigation; or

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

*Principal* means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

*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 furnished 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) *Code of business ethics and conduct.*

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall-

(i) Have a written code of business ethics and conduct; and

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) *The Contractor shall*-

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed-

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act ([31 U.S.C. 3729-3733](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor’s disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, [5 U.S.C. Section 552](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization’s jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101). The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor’s standards and procedures and other aspects of the Contractor’s business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual’s respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor’s principals and employees, and as appropriate, the Contractor’s agents and subcontractors.

(2) An internal control system.

(i) The Contractor’s internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor’s internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor’s code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor’s code of business ethics and conduct and the special requirements of Government contracting, including-

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title [18 U.S.C](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3). or a violation of the civil False Claims Act ([31 U.S.C. 3729-3733](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies’ contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts*.

(1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that exceed the threshold specified in FAR [3.1004](https://www.acquisition.gov/far/part-3#FAR_3_1004)(a) on the date of subcontract award and a performance period of more than 120 days.

(2) 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.

**52.203-17 CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JUN 2020)**

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at [41 U.S.C. 4712](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (FAR) [3.908](https://www.acquisition.gov/far/part-3#FAR_3_908).

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under [41 U.S.C. 4712](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), as described in section FAR [3.908](https://www.acquisition.gov/far/part-3#FAR_3_908).

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold, as defined in FAR [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101) on the date of subcontract award.

**52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUN 2020)**

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

*Executive* means officers, managing partners, or any other employees in management positions.

*First-tier subcontract* means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect costs.

*Month of award* means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

*Total compensation* means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus*.

(2) *Awards of stock, stock options, and stock appreciation rights*. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) *Earnings for services under non-equity incentive plans*. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified*.

(6) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information

(d)  (1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) (Federal Acquisition Regulation (FAR) provision [52.204-7](https://www.acquisition.gov/far/part-52#FAR_52_204_7)), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if–

(i) In the Contractor’s preceding fiscal year, the Contractor received-

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m(a), 78o(d)](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section78m&num=0&edition=prelim)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(2) *First-tier subcontract information*. Unless otherwise directed by the Contracting Officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract valued at or above the threshold specified in FAR [4.1403](https://www.acquisition.gov/far/part-4#FAR_4_1403)(a) on the date of subcontract award, the Contractor shall report the following information at [http://www.fsrs.gov](http://www.fsrs.gov/) for that first-tier subcontract. (The Contractor shall follow the instructions at [http://www.fsrs.gov](http://www.fsrs.gov/) to report the data.)

(i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor’s physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor’s primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) Executive compensation of the first-tier subcontractor. Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract valued at or above the threshold specified in FAR [4.1403](https://www.acquisition.gov/far/part-4#FAR_4_1403)(a) on the date of subcontract award, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor’s preceding completed fiscal year at [http://www.fsrs.gov](http://www.fsrs.gov/), if-

(i) In the subcontractor’s preceding fiscal year, the subcontractor received-

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) $25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m(a), 78o(d)](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section78m&num=0&edition=prelim)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value below the threshold specified in FAR [4.1403](https://www.acquisition.gov/far/part-4#FAR_4_1403)(a), on the date of subcontract award, to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g)  (1) If the Contractor in the previous tax year had gross income, from all sources, under $300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under $300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at [http://www.fsrs.gov](http://www.fsrs.gov/) will be prepopulated with some information from SAM and the FPDS database. If FPDS information is incorrect, the contractor should notify the contracting officer. If the SAM information is incorrect, the contractor is responsible for correcting this information.

**52.204-18 COMMERCIAL AND GOVERNMENT ENTITY CODE MAINTENANCE (AUG 2020)**

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

*Commercial and Government Entity (CAGE) code* means–

(1) An identifier assigned to entities located in the United States or its outlying areas by the Defense Logistics Agency (DLA) Commercial and Government Entity (CAGE) Branch to identify a commercial or government entity by unique location; or

(2) An identifier assigned by a member of the North Atlantic Treaty Organization (NATO) or by the NATO Support and Procurement Agency (NSPA) to entities located outside the United States and its outlying areas that the DLA Commercial and Government Entity (CAGE) Branch records and maintains in the CAGE master file. This type of code is known as a NATO CAGE (NCAGE) code.

(b) Contractors shall ensure that the CAGE code is maintained throughout the life of the contract for each location of contract, including subcontract, performance. For contractors registered in the System for Award Management (SAM), the DLA Commercial and Government Entity (CAGE) Branch shall only modify data received from SAM in the CAGE master file if the contractor initiates those changes via update of its SAM registration. Contractors undergoing a novation or change-of-name agreement shall notify the contracting officer in accordance with subpart [42.12](https://www.acquisition.gov/far/part-42#FAR_Subpart_42_12). The contractor shall communicate any change to the CAGE code to the contracting officer within 30 days after the change, so that a modification can be issued to update the CAGE code on the contract.

(c) Contractors located in the United States or its outlying areas that are not registered in SAM shall submit written change requests to the DLA Commercial and Government Entity (CAGE) Branch. Requests for changes shall be provided at [https://cage.dla.mil](https://cage.dla.mil/). Change requests to the CAGE master file are accepted from the entity identified by the code.

(d) Contractors located outside the United States and its outlying areas that are not registered in SAM shall contact the appropriate National Codification Bureau (points of contact available at <http://www.nato.int/structur/AC/135/main/links/contacts.htm>) or NSPA at <https://eportal.nspa.nato.int/AC135Public/scage/CageList.aspx> to request CAGE changes.

(e) Additional guidance for maintaining CAGE codes is available at [https://cage.dla.mil](https://cage.dla.mil/).

(f) If the contract includes Federal Acquisition Regulation clause [52.204-2](https://www.acquisition.gov/far/part-52#FAR_52_204_2), Security Requirements, the contractor shall ensure that subcontractors maintain their CAGE code(s) throughout the life of the contract.

**52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2020)**

(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](https://www.acquisition.gov/far/part-4#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](https://www.acquisition.gov/far/part-4#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](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](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 items.

**52.209-6 PROTECTING THE GOVERNMENT’S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUN 2020)**

(a) *Definition*.

*Commercially available off-the-shelf (COTS)* item, as used in this clause—

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

(i) A commercial item (as defined in paragraph (1) of the definition in Federal Acquisition Regulation (FAR)[2.101](https://www.acquisition.gov/far/part-2#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)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), such as agricultural products and petroleum products.

(b) The Government suspends or debars Contractors to protect the Government’s interests. Other than a subcontract for a commercially available off-the-shelf item, the Contractor shall not enter into any subcontract, in excess of the threshold specified in FAR [9.405-2](https://www.acquisition.gov/far/part-9#FAR_9_405_2)(b) on the date of subcontract award, with a Contractor that is debarred, suspended, or proposed for debarment by any executive agency unless there is a compelling reason to do so.

(c) The Contractor shall require each proposed subcontractor whose subcontract will exceed the threshold specified in FAR [9.405-2](https://www.acquisition.gov/far/part-9#FAR_9_405_2)(b) on the date of subcontract award, other than a subcontractor providing a commercially available off-the-shelf item, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(d) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party (other than a subcontractor providing a commercially available off-the-shelf item) that is debarred, suspended, or proposed for debarment (see FAR [9.404](https://www.acquisition.gov/far/part-9#FAR_9_404) for information on the System for Award Management (SAM) Exclusions). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor’s knowledge of the reasons for the subcontractor being listed with an exclusion in SAM.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its being listed with an exclusion in SAM.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party’s debarment, suspension, or proposed debarment.

(e) *Subcontracts*. Unless this is a contract for the acquisition of commercial items, the Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for the identification of the parties), in each subcontract that—

(1) Exceeds the threshold specified in FAR [9.405-2](https://www.acquisition.gov/far/part-9#FAR_9_405_2)(b) on the date of subcontract award; and

(2) Is not a subcontract for commercially available off-the-shelf items.

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS (NOV 2020)**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.203-19](https://www.acquisition.gov/far/part-52#FAR_52_203_19), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) [52.204-23](https://www.acquisition.gov/far/part-52#FAR_52_204_23), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(3) [52.204-25](https://www.acquisition.gov/far/part-52#FAR_52_204_25), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2020) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) [52.209-10](https://www.acquisition.gov/far/part-52#FAR_52_209_10), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(5) [52.233-3](https://www.acquisition.gov/far/part-52#FAR_52_233_3), Protest After Award (Aug 1996) ([31 U.S.C. 3553](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(6) [52.233-4](https://www.acquisition.gov/far/part-52#FAR_52_233_4), Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 ( [19 U.S.C. 3805 note](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3))).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[*Contracting Officer check as appropriate*.]

**X**  (1) [52.203-6](https://www.acquisition.gov/far/part-52#FAR_52_203_6), Restrictions on Subcontractor Sales to the Government (June 2020), with *Alternate I* (Oct 1995) ([41 U.S.C. 4704](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [10 U.S.C. 2402](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (2) [52.203-13](https://www.acquisition.gov/far/part-52#FAR_52_203_13), Contractor Code of Business Ethics and Conduct (Jun 2020) ([41 U.S.C. 3509](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3))).

\_\_ (3) [52.203-15](https://www.acquisition.gov/far/part-52#FAR_52_203_15), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

**X**  (4) [52.204-10](https://www.acquisition.gov/far/part-52#FAR_52_204_10), Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (Pub. L. 109-282) ( [31 U.S.C. 6101 note](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title31-section6101&num=0&edition=prelim)).

\_\_ (5) [Reserved].

\_\_ (6) [52.204-14](https://www.acquisition.gov/far/part-52#FAR_52_204_14), Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).

**X**  (7) [52.204-15](https://www.acquisition.gov/far/part-52#FAR_52_204_15), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C). ***Note: This clause only applies to offerors of services under SIN C-100. Please refer to the “SIN C-100: Additional Representations/Requirements” section of Vendor Response Document 02 for further information.***

**X**  (8) [52.209-6](https://www.acquisition.gov/far/part-52#FAR_52_209_6), Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Jun 2020) ([31 U.S.C. 6101 note](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title31-section6101&num=0&edition=prelim)).

**X**  (9) [52.209-9](https://www.acquisition.gov/far/part-52#FAR_52_209_9), Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) ([41 U.S.C. 2313](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title41-section2313&num=0&edition=prelim)).

\_\_ (10) [Reserved].

**X**  (11) (i) [52.219-3](https://www.acquisition.gov/far/part-52#FAR_52_219_3), Notice of HUBZone Set-Aside or Sole-Source Award (Mar 2020) ([15 U.S.C. 657a](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section637a&num=0&edition=prelim)).

\_\_ (ii) Alternate I (Mar 2020) of [52.219-3](https://www.acquisition.gov/far/part-52#FAR_52_219_3). ***Note: Please refer within this solicitation to clause 52.219-13 Notice of Set-Aside of Orders and its accompanying note***.

\_\_ (12) (i) [52.219-4](https://www.acquisition.gov/far/part-52#FAR_52_219_4), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Mar 2020) (if the offeror elects to waive the preference, it shall so indicate in its offer) ([15 U.S.C. 657a](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (ii) Alternate I (Mar 2020) of [52.219-4](https://www.acquisition.gov/far/part-52#FAR_52_219_4).

\_\_ (13) [Reserved]

**X**  (14) (i) [52.219-6](https://www.acquisition.gov/far/part-52#FAR_52_219_6), Notice of Total Small Business Set-Aside (Nov 2020) ([15 U.S.C. 644](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (ii) Alternate I (Mar 2020) of [52.219-6](https://www.acquisition.gov/far/part-52#FAR_52_219_6). ***Note: Please refer within this solicitation to clause 52.219-13 Notice of Set-Aside of Orders and its accompanying note***.

\_\_ (15) (i) [52.219-7](https://www.acquisition.gov/far/part-52#FAR_52_219_7), Notice of Partial Small Business Set-Aside (Nov 2020) ([15 U.S.C. 644](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

 \_\_ (ii) Alternate I (Mar 2020) of [52.219-7](https://www.acquisition.gov/far/part-52#FAR_52_219_7).

**X**  (16) [52.219-8](https://www.acquisition.gov/far/part-52#FAR_52_219_8), Utilization of Small Business Concerns (Oct 2018) ([15 U.S.C. 637(d)(2)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and (3)).

\_\_ (17) (i) [52.219-9](https://www.acquisition.gov/far/part-52#FAR_52_219_9), Small Business Subcontracting Plan (Jun 2020) ([15 U.S.C. 637(d)(4)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (ii) Alternate I (Nov 2016) of [52.219-9](https://www.acquisition.gov/far/part-52#FAR_52_219_9).

**X**  (iii) Alternate II (Nov 2016) of [52.219-9](https://www.acquisition.gov/far/part-52#FAR_52_219_9).

\_\_ (iv) Alternate III (Jun 2020) of [52.219-9](https://www.acquisition.gov/far/part-52#FAR_52_219_9).

\_\_ (v) Alternate IV (Jun 2020) of [52.219-9](https://www.acquisition.gov/far/part-52#FAR_52_219_9)

\_\_ (18) (i) [52.219-13](https://www.acquisition.gov/far/part-52#FAR_52_219_13), Notice of Set-Aside of Orders (Mar 2020) ([15 U.S.C. 644(r)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). ***Note: This clause is included in full text within this solicitation.***

\_\_ (ii) Alternate I (Mar 2020) of [52.219-13](https://www.acquisition.gov/far/part-52#FAR_52_219_13).

**X**  (19) [52.219-14](https://www.acquisition.gov/far/part-52#FAR_52_219_14), Limitations on Subcontracting (Mar 2020) ([15 U.S.C. 637(a)(14)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). ***Note: Please refer within this solicitation to clause 52.219-13 Notice of Set-Aside of Orders and its accompanying note***.

**X**  (20) [52.219-16](https://www.acquisition.gov/far/part-52#FAR_52_219_16), Liquidated Damages-Subcontracting Plan (Jan 1999) ([15 U.S.C. 637(d)(4)(F)(i)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (21) [52.219-27](https://www.acquisition.gov/far/part-52#FAR_52_219_27), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Mar 2020) ([15 U.S.C. 657f](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). ***Note: Please refer within this solicitation to clause 52.219-13 Notice of Set-Aside of Orders and its accompanying note***.

**X**  (22) (i) [52.219-28](https://www.acquisition.gov/far/part-52#FAR_52_219_28), Post Award Small Business Program Rerepresentation (Nov 2020) ([15 U.S.C. 632(a)(2)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (ii) Alternate I (MAR 2020) of [52.219-28](https://www.acquisition.gov/far/part-52#FAR_52_219_28).

**X**  (23) [52.219-29](https://www.acquisition.gov/far/part-52#FAR_52_219_29), Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Mar 2020) ([15 U.S.C. 637(m)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). ***Note: Please refer within this solicitation to clause 52.219-13 Notice of Set-Aside of Orders and its accompanying note***.

**X**  (24) [52.219-30](https://www.acquisition.gov/far/part-52#FAR_52_219_30), Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Mar2020) ([15 U.S.C. 637(m)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). ***Note: Please refer within this solicitation to clause 52.219-13 Notice of Set-Aside of Orders and its accompanying note***.

\_\_ (25) [52.219-32](https://www.acquisition.gov/far/part-52#FAR_52_219_32), Orders Issued Directly Under Small Business Reserves (Mar 2020) ([15 U.S.C. 644](https://www.govinfo.gov/content/pkg/USCODE-2018-title15/html/USCODE-2018-title15-chap14A-sec644.htm)(r)).

**X**  (26) [52.219-33](https://www.acquisition.gov/far/part-52#FAR_52_219_33), Nonmanufacturer Rule (Mar 2020) ([15U.S.C. 637](https://www.govinfo.gov/content/pkg/USCODE-2018-title15/html/USCODE-2018-title15-chap14A-sec637.htm)(a)(17)).

**X**  (27) [52.222-3](https://www.acquisition.gov/far/part-52#FAR_52_222_3), Convict Labor (Jun 2003) (E.O.11755).

**X**  (28) [52.222-19](https://www.acquisition.gov/far/part-52#FAR_52_222_19), Child Labor-Cooperation with Authorities and Remedies (Jan2020) (E.O.13126).

**X**  (29) [52.222-21](https://www.acquisition.gov/far/part-52#FAR_52_222_21), Prohibition of Segregated Facilities (Apr 2015).

**X**  (30) (i) [52.222-26](https://www.acquisition.gov/far/part-52#FAR_52_222_26), Equal Opportunity (Sep 2016) (E.O.11246).

\_\_ (ii) Alternate I (Feb 1999) of [52.222-26](https://www.acquisition.gov/far/part-52#FAR_52_222_26).

**X**  (31) (i) [52.222-35](https://www.acquisition.gov/far/part-52#FAR_52_222_35), Equal Opportunity for Veterans (Jun 2020) ([38 U.S.C. 4212](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title38-section4212&num=0&edition=prelim)).

\_\_ (ii) Alternate I (Jul 2014) of [52.222-35](https://www.acquisition.gov/far/part-52#FAR_52_222_35).

**X**  (32) (i) [52.222-36](https://www.acquisition.gov/far/part-52#FAR_52_222_36), Equal Opportunity for Workers with Disabilities (Jun 2020) ([29 U.S.C. 793](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title29-section793&num=0&edition=prelim)).

\_\_ (ii) Alternate I (Jul 2014) of [52.222-36](https://www.acquisition.gov/far/part-52#FAR_52_222_36).

**X**  (33) [52.222-37](https://www.acquisition.gov/far/part-52#FAR_52_222_37), Employment Reports on Veterans (Jun 2020) ([38 U.S.C. 4212](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title38-section4212&num=0&edition=prelim)).

**X**  (34) [52.222-40](https://www.acquisition.gov/far/part-52#FAR_52_222_40), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

**X**  (35) (i) [52.222-50](https://www.acquisition.gov/far/part-52#FAR_52_222_50), Combating Trafficking in Persons (Oct 2020) ([22 U.S.C. chapter 78](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and E.O. 13627).

\_\_ (ii) Alternate I (Mar 2015) of [52.222-50](https://www.acquisition.gov/far/part-52#FAR_52_222_50) ([22 U.S.C. chapter 78](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and E.O. 13627).

**X**  (36) [52.222-54](https://www.acquisition.gov/far/part-52#FAR_52_222_54), Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in [22.1803](https://www.acquisition.gov/far/part-22#FAR_22_1803).) ***Note: This clause only applies to offerors of services under SIN C-100. Please refer to the “SIN C-100: Additional Representations/Requirements” section of Vendor Response Document 02 for further information.***

\_\_ (37) (i) [52.223-9](https://www.acquisition.gov/far/part-52#FAR_52_223_9), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) ( [42 U.S.C. 6962(c)(3)(A)(ii)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

\_\_ (ii) Alternate I (May 2008) of [52.223-9](https://www.acquisition.gov/far/part-52#FAR_52_223_9) ([42 U.S.C. 6962(i)(2)(C)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

**X**  (38) [52.223-11](https://www.acquisition.gov/far/part-52#FAR_52_223_11), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).

\_\_ (39) [52.223-12](https://www.acquisition.gov/far/part-52#FAR_52_223_12), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).

\_\_ (40) (i) [52.223-13](https://www.acquisition.gov/far/part-52#FAR_52_223_13), Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).

\_\_ (ii) Alternate I (Oct 2015) of [52.223-13](https://www.acquisition.gov/far/part-52#FAR_52_223_13).

\_\_ (41) (i) [52.223-14](https://www.acquisition.gov/far/part-52#FAR_52_223_14), Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).

\_\_ (ii) Alternate I (Jun2014) of [52.223-14](https://www.acquisition.gov/far/part-52#FAR_52_223_14).

\_\_ (42) [52.223-15](https://www.acquisition.gov/far/part-52#FAR_52_223_15), Energy Efficiency in Energy-Consuming Products (May 2020) ([42 U.S.C. 8259b](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (43) (i) [52.223-16](https://www.acquisition.gov/far/part-52#FAR_52_223_16), Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).

\_\_ (ii) Alternate I (Jun 2014) of [52.223-16](https://www.acquisition.gov/far/part-52#FAR_52_223_16).

**X**  (44) [52.223-18](https://www.acquisition.gov/far/part-52#FAR_52_223_18), Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (E.O. 13513).

**X**  (45) [52.223-20](https://www.acquisition.gov/far/part-52#FAR_52_223_20), Aerosols (Jun 2016) (E.O. 13693).

**X**  (46) [52.223-21](https://www.acquisition.gov/far/part-52#FAR_52_223_21), Foams (Jun2016) (E.O. 13693).

**X**  (47) (i) [52.224-3](https://www.acquisition.gov/far/part-52#FAR_52_224_3) Privacy Training (Jan 2017) (5 U.S.C. 552 a).

\_\_ (ii) Alternate I (Jan 2017) of [52.224-3](https://www.acquisition.gov/far/part-52#FAR_52_224_3).

\_\_ (48) [52.225-1](https://www.acquisition.gov/far/part-52#FAR_52_225_1), Buy American-Supplies (May 2014) ([41 U.S.C. chapter 83](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (49) (i) [52.225-3](https://www.acquisition.gov/far/part-52#FAR_52_225_3), Buy American-Free Trade Agreements-Israeli Trade Act (May 2014) ([41 U.S.C.chapter83](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), [19 U.S.C. 3301](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)note, [19 U.S.C. 2112](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)note, [19 U.S.C. 3805](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) note, [19 U.S.C. 4001](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.

\_\_ (ii) Alternate I (May 2014) of [52.225-3](https://www.acquisition.gov/far/part-52#FAR_52_225_3).

\_\_ (iii) Alternate II (May 2014) of [52.225-3](https://www.acquisition.gov/far/part-52#FAR_52_225_3).

\_\_ (iv) Alternate III (May 2014) of [52.225-3](https://www.acquisition.gov/far/part-52#FAR_52_225_3).

**X**  (50) [52.225-5](https://www.acquisition.gov/far/part-52#FAR_52_225_5), Trade Agreements (Oct 2019) ([19 U.S.C. 2501](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title19-section2501&num=0&edition=prelim), *et seq*., [19 U.S.C. 3301](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title19-section3301&num=0&edition=prelim) note).

**X**  (51) [52.225-13](https://www.acquisition.gov/far/part-52#FAR_52_225_13), Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.’s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\_\_ (52) [52.225-26](https://www.acquisition.gov/far/part-52#FAR_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. 2302Note)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3).

\_\_ (53) [52.226-4](https://www.acquisition.gov/far/part-52#FAR_52_226_4), Notice of Disaster or Emergency Area Set-Aside (Nov2007) ([42 U.S.C. 5150](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (54) [52.226-5](https://www.acquisition.gov/far/part-52#FAR_52_226_5), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) ([42 U.S.C. 5150](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (55) [52.229-12](https://www.acquisition.gov/far/part-52#FAR_52_229_12), Tax on Certain Foreign Procurements (Jun 2020).

\_\_ (56) [52.232-29](https://www.acquisition.gov/far/part-52#FAR_52_232_29), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 4505](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), [10 U.S.C. 2307(f)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (57) [52.232-30](https://www.acquisition.gov/far/part-52#FAR_52_232_30), Installment Payments for Commercial Items (Jan 2017) ([41 U.S.C. 4505](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), [10 U.S.C. 2307(f)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (58) [52.232-33](https://www.acquisition.gov/far/part-52#FAR_52_232_33), Payment by Electronic Funds Transfer-System for Award Management (Oct2018) ([31 U.S.C. 3332](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title31-section3332&num=0&edition=prelim)).

**X**  (59) [52.232-34](https://www.acquisition.gov/far/part-52#FAR_52_232_34), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) ([31 U.S.C. 3332](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (60) [52.232-36](https://www.acquisition.gov/far/part-52#FAR_52_232_36), Payment by Third Party (May 2014) ([31 U.S.C. 3332](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). ***(Deviation May 2003)***

\_\_ (61) [52.239-1](https://www.acquisition.gov/far/part-52#FAR_52_239_1), Privacy or Security Safeguards (Aug 1996) ([5 U.S.C. 552a](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title5-section552a&num=0&edition=prelim)).

**X**  (62) [52.242-5](https://www.acquisition.gov/far/part-52#FAR_52_242_5), Payments to Small Business Subcontractors (Jan 2017) ([15 U.S.C. 637(d)(13)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (63) (i) [52.247-64](https://www.acquisition.gov/far/part-52#FAR_52_247_64), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241(b)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [10 U.S.C. 2631](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (ii) Alternate I (Apr 2003) of [52.247-64](https://www.acquisition.gov/far/part-52#FAR_52_247_64).

\_\_ (iii) Alternate II (Feb 2006) of [52.247-64](https://www.acquisition.gov/far/part-52#FAR_52_247_64).

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

[*Contracting Officer check as appropriate.*]

***Note: Clauses checked below under paragraph (c) only apply to certain offerors of services under SIN C-100. Please refer to the “SIN C-100: Additional Representations/Requirements” section of Vendor Response Document 02 for further information.***

**X**  (1) [52.222-41](https://www.acquisition.gov/far/part-52#FAR_52_222_41), Service Contract Labor Standards (Aug 2018) ([41 U.S.C. chapter67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (2) [52.222-42](https://www.acquisition.gov/far/part-52#FAR_52_222_42), Statement of Equivalent Rates for Federal Hires (May 2014) ([29 U.S.C. 206](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (3) [52.222-43](https://www.acquisition.gov/far/part-52#FAR_52_222_43), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (Aug 2018) ([29 U.S.C. 206](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (4) [52.222-44](https://www.acquisition.gov/far/part-52#FAR_52_222_44), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) ( [29U.S.C.206](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)and [41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (5) [52.222-51](https://www.acquisition.gov/far/part-52#FAR_52_222_51), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

\_\_ (6) [52.222-53](https://www.acquisition.gov/far/part-52#FAR_52_222_53), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

**X**  (7) [52.222-55](https://www.acquisition.gov/far/part-52#FAR_52_222_55), Minimum Wages Under Executive Order 13658 (Nov 2020).

**X**  (8) [52.222-62](https://www.acquisition.gov/far/part-52#FAR_52_222_62), Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).

\_\_ (9) [52.226-6](https://www.acquisition.gov/far/part-52#FAR_52_226_6), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ([42 U.S.C. 1792](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101), on the date of award of this contract, and does not contain the clause at [52.215-2](https://www.acquisition.gov/far/part-52#FAR_52_215_2), Audit and Records-Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR subpart [4.7](https://www.acquisition.gov/far/part-4#FAR_Subpart_4_7), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)  (1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) [52.203-13](https://www.acquisition.gov/far/part-52#FAR_52_203_13), Contractor Code of Business Ethics and Conduct (Jun 2020) ([41 U.S.C. 3509](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(ii) [52.203-19](https://www.acquisition.gov/far/part-52#FAR_52_203_19), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) [52.204-23](https://www.acquisition.gov/far/part-52#FAR_52_204_23), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(iv) [52.204-25](https://www.acquisition.gov/far/part-52#FAR_52_204_25), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2020) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) [52.219-8](https://www.acquisition.gov/far/part-52#FAR_52_219_8), Utilization of Small Business Concerns (Oct 2018) ([15 U.S.C. 637(d)(2)](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title15-section637&num=0&edition=prelim) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702](https://www.acquisition.gov/far/part-19#FAR_19_702)(a) on the date of subcontract award, the subcontractor must include [52.219-8](https://www.acquisition.gov/far/part-52#FAR_52_219_8) in lower tier subcontracts that offer subcontracting opportunities.

(vi) [52.222-21](https://www.acquisition.gov/far/part-52#FAR_52_222_21), Prohibition of Segregated Facilities (Apr 2015).

(vii) [52.222-26](https://www.acquisition.gov/far/part-52#FAR_52_222_26), Equal Opportunity (Sep 2015) (E.O.11246).

(viii) [52.222-35](https://www.acquisition.gov/far/part-52#FAR_52_222_35), Equal Opportunity for Veterans (Jun 2020) ([38 U.S.C. 4212](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(ix) [52.222-36](https://www.acquisition.gov/far/part-52#FAR_52_222_36), Equal Opportunity for Workers with Disabilities (Jun 2020) ([29 U.S.C. 793](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(x) [52.222-37](https://www.acquisition.gov/far/part-52#FAR_52_222_37), Employment Reports on Veterans (Jun 2020) ([38 U.S.C. 4212](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(xi) [52.222-40](https://www.acquisition.gov/far/part-52#FAR_52_222_40), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](https://www.acquisition.gov/far/part-52#FAR_52_222_40).

(xii) [52.222-41](https://www.acquisition.gov/far/part-52#FAR_52_222_41), Service Contract Labor Standards (Aug 2018) ([41 U.S.C. chapter 67](http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title41-chapter67-front&num=0&edition=prelim)).

(xiii)  (A) [52.222-50](https://www.acquisition.gov/far/part-52#FAR_52_222_50), Combating Trafficking in Persons (Oct 2020) ([22 U.S.C. chapter 78](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and E.O

(B) Alternate I (Mar 2015) of [52.222-50](https://www.acquisition.gov/far/part-52#FAR_52_222_50) ([22 U.S.C. chapter 78 and E.O. 13627](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(xiv) [52.222-51](https://www.acquisition.gov/far/part-52#FAR_52_222_51), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May2014) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(xv) [52.222-53](https://www.acquisition.gov/far/part-52#FAR_52_222_53), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(xvi) [52.222-54](https://www.acquisition.gov/far/part-52#FAR_52_222_54), Employment Eligibility Verification (Oct 2015) (E.O. 12989).

(xvii) [52.222-55](https://www.acquisition.gov/far/part-52#FAR_52_222_55), Minimum Wages Under Executive Order 13658 (Nov 2020).

(xviii) [52.222-62](https://www.acquisition.gov/far/part-52#FAR_52_222_62), Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).

(xix) (A) [52.224-3](https://www.acquisition.gov/far/part-52#FAR_52_224_3), Privacy Training (Jan 2017) ([5 U.S.C. 552a](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)).

(B) Alternate I (Jan 2017) of [52.224-3](https://www.acquisition.gov/far/part-52#FAR_52_224_3).

(xx) [52.225-26](https://www.acquisition.gov/far/part-52#FAR_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)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3).

(xxi) [52.226-6](https://www.acquisition.gov/far/part-52#FAR_52_226_6), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ([42 U.S.C. 1792](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxii) [52.247-64](https://www.acquisition.gov/far/part-52#FAR_52_247_64), Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) ([46 U.S.C. Appx. 1241(b)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) and [10 U.S.C. 2631](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)). Flow down required in accordance with paragraph

(2) While not required, the Contractor may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

**52.215-21 REQUIREMENTS FOR CERTIFIED COST OR PRICING DATA AND DATA OTHER THAN CERTIFIED COST OR PRICING DATA - MODIFICATIONS (JUN 2020, ALTERNATE IV – OCT 2010)**

(a) Submission of certified cost or pricing data is not required.

(b) Provide data described data described below:

(1) Information required by the clause at 552.238-81, Modification (Federal Supply Schedule);

(2) Any additional supporting information requested by the Contracting Officer. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether the price(s) offered is fair and reasonable.

(3) By submitting a request for modification, the Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before agreeing to a modification, books, records, documents, papers, and other directly pertinent records to verify the pricing, sales and other data related to the supplies or services proposed in order to determine the reasonableness of price(s). Access does not extend to Contractor’s cost or profit information or other data relevant solely to the Contractor’s determination of the prices to be offered in the catalog or marketplace.

**52.216-18 ORDERING (AUG 2020)**

***NOTE: This clause does not apply to orders placed through a Government Prime Vendor.***

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from Date of Award through Contract expiration date.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) A delivery order or task order is considered "issued" when—

(1) If sent by mail (includes transmittal by U.S. mail or private delivery service), the Government deposits the order in the mail;

(2) If sent by fax, the Government transmits the order to the Contractor's fax number; or

(3) If sent electronically, the Government either—

(i) Posts a copy of the delivery order or task order to a Government document access system, and notice is sent to the Contractor; or

(ii) Distributes the delivery order or task order via email to the Contractor's email address.

(d) Orders may be issued by methods other than those enumerated in this clause only if authorized in the contract

***NOTE:  If the contractor will have access to Protected Health Information (PHI) in the performance of an order, then a VA ordering activity may require the FSS contractor to enter into a Business Associate Agreement (BAA) to be in compliance with privacy laws and VA contract security requirements and policies, including those outlined in VA Handbook 6500.6, Contract Security. It is VA’s policy that if the FSS contractor will be providing services at more than one VA facility, the FSS contractor should not be required to enter into multiple agreements; instead a national BAA should be executed. If further guidance is needed, please contact the Business Associate Program Manager at (615) 564-0687 or by e-mail at*** [**VHABAAIssues@va.gov**](mailto:VHABAAIssues@va.gov)**.**

**52.219-3 NOTICE OF HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (MAR 2020)**

***Note: Please consult the applicability note within this document at 52.219-13 Notice of Set-Aside of Orders.***

(a) *Definitions*. See [13 CFR 125.1](https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-sec125-1.xml) and [126.103](https://www.govinfo.gov/content/pkg/CFR-2019-title13-vol1/xml/CFR-2019-title13-vol1-sec126-103.xml) for definitions of terms used in the clause.

(b) *Applicability*. This clause applies only to-

(1) Contracts that have been set aside or awarded on a sole source basis to, HUBZone small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for HUBZone small business concerns;

(3) Orders set-aside for HUBZone small business concerns under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F); and

(4) Orders issued directly to HUBZone small business concerns under multiple-award contracts as described in [19.504](https://www.acquisition.gov/far/part-19#FAR_19_504)(c)(1)(ii).

(c) *General*.

(1) Offers are solicited only from HUBZone small business concerns. Offers received from concerns that are not HUBZone small business concerns will not be considered.

(2) Any award resulting from this solicitation will be made to a HUBZone small business concern.

(d) *Limitations on subcontracting.* The Contractor shall spend—

(1) For services (except construction), at least 50 percent of the cost of contract performance incurred for personnel on its own employees or employees of other HUBZone small business concerns;

(2) For supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, on the concern or other HUBZone small business concerns;

(3) *For general construction*—

(i) At least 15 percent of the cost of contract performance incurred for personnel on its own employees;

(ii) At least 50 percent of the cost of the contract performance incurred for personnel on its own employees or on a combination of its own employees and employees of HUBZone small business concern subcontractors; and

(iii) No more than 50 percent of the cost of contract performance incurred for personnel on concerns that are not HUBZone small business concerns; or

(4) *For construction by special trade contractors*—

(i) At least 25 percent of the cost of contract performance incurred for personnel on its own employees;

(ii) At least 50 percent of the cost of the contract performance incurred for personnel on its own employees or on a combination of its own employees and employees of HUBZone small business concern subcontractors;

(iii) No more than 50 percent of the cost of contract performance to be incurred for personnel will be subcontracted to concerns that are not HUBZone small business concerns.

(e) A HUBZone small business contractor shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraph (b)(1) or (2) of this clause—

[*Contracting Officer check as appropriate.*]

\_ By the end of the base term of the contract and then by the end of each subsequent option period; or

\_ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraph (b)(3) or (4) of this clause, by the end of the performance period for the order.

(f) A HUBZone joint venture agrees that, in the performance of the contract, the applicable percentage specified in paragraph (d) of this clause shall be performed by the aggregate of the HUBZone small business participants.

(g) *Notice*. The HUBZone small business offeror acknowledges that a prospective HUBZone awardee must be a HUBZone small business concern at the time of award of this contract. The HUBZone offeror shall provide the Contracting Officer a copy of the notice required by 13 CFR 126.501 if material changes occur before contract award that could affect its HUBZone eligibility. If the apparently successful HUBZone offeror is not a HUBZone small business concern at the time of award of this contract, the Contracting Officer will proceed to award to the next otherwise successful HUBZone small business concern or other offeror.

**52.219-6 NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2020)**

***Note: At the Ordering Activity level, orders may be set aside for any SINs under this schedule. Please consult the applicability note within this document at 52.219-13 Notice of Set-Aside of Orders.***

(a) *Definition*. *Small business concern*, as used in this clause—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the size standards in this solicitation.

(2) *Affiliates*, as used in paragraph (a)(1) of this clause, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

(b) *Applicability*. This clause applies only to-

(1) Contracts that have been totally set aside for small business concerns; and

(2) Orders set aside for small business concerns under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F).

(c) General.

 (1) Offers are solicited only from small business concerns. Offers received from concerns that are not small business concerns shall be considered nonresponsive and will be rejected.

(2) Any award resulting from this solicitation will be made to a small business concern.

**52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JUN 2020, ALTERNATE II – NOV 2016)**

(a) This clause does not apply to small business concerns.

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

*Alaska Native Corporation (ANC)* means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended ([43 U.S.C. 1601](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), *et seq.*) and which is considered a minority and economically disadvantaged concern under the criteria at [43 U.S.C. 1626(e)(1)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of [43 U.S.C. 1626(e)(2)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3).

*Commercial item* means a product or service that satisfies the definition of commercial item in Federal Acquisition Regulation (FAR) [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101).

*Commercial plan* means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (*e.g.,* division, plant, or product line).

*Electronic Subcontracting Reporting System (eSRS)* means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at [http://www.esrs.gov](http://www.esrs.gov/).

*Indian tribe* means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act ([43 U.S.C. 1601](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3) et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with [25 U.S.C. 1452(c)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3). This definition also includes Indian-owned economic enterprises that meet the requirements of [25 U.S.C. 1452(e)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3).

*Individual subcontracting plan* means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror's planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

*Master subcontracting plan* means a subcontracting plan that contains all the required elements of an individual subcontracting plan, except goals, and may be incorporated into individual subcontracting plans, provided the master subcontracting plan has been approved.

*Reduced payment* means a payment that is for less than the amount agreed upon in a subcontract in accordance with its terms and conditions, for supplies and services for which the Government has paid the prime contractor.

*Subcontract* means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

*Total contract dollars* means the final anticipated dollar value, including the dollar value of all options.

*Untimely payment* means a payment to a subcontractor that is more than 90 days past due under the terms and conditions of a subcontract for supplies and services for which the Government has paid the prime contractor.

(c) (1) Proposals submitted in response to this solicitation shall include a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the Offeror is submitting an individual subcontracting plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the Offeror ineligible for award of a contract.

(2) (i) The Contractor may accept a subcontractor's written representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business if the subcontractor represents that the size and socioeconomic status representations with its offer are current, accurate, and complete as of the date of the offer for the subcontract.

(ii) The Contractor may accept a subcontractor's representations of its size and socioeconomic status as a small business, small disadvantaged business, veteran-owned small business, service-disabled veteran-owned small business, or a women-owned small business in the System for Award Management (SAM) if–

(A) The subcontractor is registered in SAM; and

(B) The subcontractor represents that the size and socioeconomic status representations made in SAM are current, accurate and complete as of the date of the offer for the subcontract.

(iii) The Contractor may not require the use of SAM for the purposes of representing size or socioeconomic status in connection with a subcontract.

(iv) In accordance with 13 CFR 121.411, 124.1015, 125.29, 126.900, and 127.700, a contractor acting in good faith is not liable for misrepresentations made by its subcontractors regarding the subcontractor's size or socioeconomic status.

(d) The Offeror’s subcontracting plan shall include the following:

(1) Separate goals, expressed in terms of total dollars subcontracted, and as a percentage of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. For individual subcontracting plans, and if required by the Contracting Officer, goals shall also be expressed in terms of percentage of total contract dollars, in addition to the goals expressed as a percentage of total subcontract dollars. The Offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with [43 U.S.C. 1626](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3):

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe; and

(ii) Where one or more subcontractors are in the subcontract tier between the prime Contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate Contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe

(D) If the Contracting Officer does not receive a copy of the ANC’s or the Indian tribe’s written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of–

(i) Total dollars planned to be subcontracted for an individual subcontracting plan; or the Offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to-

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (*e.g.*, existing company source lists, SAM, veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (*e.g.*, outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the Offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with–

(i) Small business concerns (including ANC and Indian tribes);

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the Offeror who will administer the Offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the Offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the Offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the Offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of the applicable threshold specified in FAR [19.702](https://www.acquisition.gov/far/part-19#FAR_19_702)(a) on the date of subcontract award, with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the Offeror will–

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the Offeror with the subcontracting plan;

(iii) After November 30, 2017, include subcontracting data for each order when reporting subcontracting achievements for indefinite-delivery, indefinite-quantity *contracts with individual subcontracting plans where the contract is intended* for use by multiple agencies;

(iv) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at [http://www.esrs.gov](http://www.esrs.gov/). The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(v) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(vi) Provide its prime contract number, its *unique entity identifier*, and the e-mail address of the Offeror’s official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vii) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own *unique entity identifier*, and the e-mail address of the subcontractor’s official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror’s efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (*e.g.,* SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than the simplified acquisition threshold, as defined in FAR [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101) on the date of subcontract award, indicating-

(A) Whether small business concerns were solicited and, if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and, if not, why not;

(F) Whether women-owned small business concerns were solicited and, if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact-

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, service-disabled veteran-owned, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through-

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program’s requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(12) Assurances that the Offeror will make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns that it used in preparing the bid or proposal, in the same or greater scope, amount, and quality used in preparing and submitting the bid or proposal. Responding to a request for a quote does not constitute use in preparing a bid or proposal. The Offeror used a small business concern in preparing the bid or proposal if–

(i) The Offeror identifies the small business concern as a subcontractor in the bid or proposal or associated small business subcontracting plan, to furnish certain supplies or perform a portion of the subcontract; or

(ii) The Offeror used the small business concern's pricing or cost information or technical expertise in preparing the bid or proposal, where there is written evidence of an intent or understanding that the small business concern will be awarded a subcontract for the related work if the Offeror is awarded the contract.

(13) Assurances that the Contractor will provide the Contracting Officer with a written explanation if the Contractor fails to acquire articles, equipment, supplies, services or materials or obtain the performance of construction work as described in (d)(12) of this clause. This written explanation must be submitted to the Contracting Officer within 30 days of contract completion.

(14) Assurances that the Contractor will not prohibit a subcontractor from discussing with the Contracting Officer any material matter pertaining to payment to or utilization of a subcontractor.

(15) Assurances that the offeror will pay its small business subcontractors on time and in accordance with the terms and conditions of the underlying subcontract, and notify the contracting officer when the prime contractor makes either a reduced or an untimely payment to a small business subcontractor (see [52.242-5](https://www.acquisition.gov/far/part-52#FAR_52_242_5)).

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor’s lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all "make-or-buy" decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern in accordance with [52.219-8](https://www.acquisition.gov/far/part-52#FAR_52_219_8)(d)(2).

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor’s subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold, as defined in FAR [2.101](https://www.acquisition.gov/far/part-2#FAR_2_101) on the date of subcontract award, in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, prior to award of the subcontract the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror and if the successful subcontract offeror is a small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concern.

(7) Assign each subcontract the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract.

(f) A master subcontracting plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the Offeror by this clause; provided-

(1) The master subcontracting plan has been approved;

(2) The Offeror ensures that the master subcontracting plan is updated as necessary and provides copies of the approved master subcontracting plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master subcontracting plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor’s commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government’s fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one subcontracting plan. When a contract modification exceeds the subcontracting plan threshold in FAR [19.702](https://www.acquisition.gov/far/part-19#FAR_19_702)(a), or an option is exercised, the goals of the existing subcontracting plan shall be amended to reflect any new subcontracting opportunities. When the goals in a subcontracting plan are amended, these goal changes do not apply retroactively.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at [52.212-5](https://www.acquisition.gov/far/part-52#FAR_52_212_5), Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items, or when the subcontractor provides a commercial item subject to the clause at [52.244-6](https://www.acquisition.gov/far/part-52#FAR_52_244_6), Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with (1) the clause of this contract entitled "Utilization Of Small Business Concerns;" or (2) an approved plan required by this clause, shall be a material breach of the contract and may be considered in any past performance evaluation of the Contractor.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at [http://www.esrs.gov](http://www.esrs.gov/). Purchases from a corporation, company, or subdivision that is an affiliate of the Contractor or subcontractor are not included in these reports. Subcontract awards by affiliates shall be treated as subcontract awards by the Contractor. Subcontract award data reported by the Contractor and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) *ISR*. This report is not required for commercial plans. The report is required for each contract containing an individual subcontracting plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period. When the Contracting Officer rejects an ISR, the Contractor shall submit a corrected report within 30 days of receiving the notice of ISR rejection.

(ii)  (A) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR [19.704](https://www.acquisition.gov/far/part-19#FAR_19_704)(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(B) If a subcontracting plan has been added to the contract pursuant to [19.702](https://www.acquisition.gov/far/part-19#FAR_19_702) a)(1)(iii) or [19.301-2](https://www.acquisition.gov/far/part-19#FAR_19_301_2)(e), the Contractor's achievements must be reported in the ISR on a cumulative basis from the date of incorporation of the subcontracting plan into the contract.

(iii) When a subcontracting plan includes indirect costs in the goals, these costs must be included in this report.

(iv) The authority to acknowledge receipt or reject the ISR resides–

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) *SSR*.

(i) Reports submitted under individual contract plans–

(A) This report encompasses all subcontracting under prime contracts and subcontracts with an executive agency, regardless of the dollar value of the subcontracts. This report also includes indirect costs on a prorated basis when the indirect costs are excluded from the subcontracting goals.

(B) The report may be submitted on a corporate, company or subdivision (*e.g.* plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If the Contractor or a subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over the applicable threshold specified in FAR [19.702](https://www.acquisition.gov/far/part-19#FAR_19_702)(a), and the contract and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime contractors.

(D) The report shall be submitted annually by October 30 for the twelve month period ending September 30. When a Contracting Officer rejects an SSR, the Contractor shall submit a revised report within 30 days of receiving the notice of SSR rejection.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) *Reports submitted under a commercial plan*-

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year and all indirect costs.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

**52.219-13 NOTICE OF SET-ASIDE OF ORDERS (MAR 2020)**

***Note: The ordering level Contract Officer may, at his/her discretion, set-aside an order for a specific small business program.  Depending upon the type of set-aside identified at the ordering level, one or more of the following clauses will apply:***

***52.219-14   Limitations on Subcontracting***

***52.219-3 Notice of HUBZone Set-Aside or Sole Source Award***

***52.219-6   Notice of Total Small Business Set-Aside***

***52.219-27   Notice of Service-Disabled Veteran-Owned Small Business Set-Aside***

***52.219-29   Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns***

***52.219-30   Notice of Set-Aside for, or Sole Source Award to, Women-Owned Small Business Concerns Eligible under the Women-Owned Small Business Program***

(a) The Contracting Officer may set aside orders for the small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3).

(b) The Contracting Officer will give notice of the order or orders, if any, to be set aside for small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3) and the applicable small business program. This notice, and its restrictions, will apply only to the specific orders that have been set aside for any of the small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3).

**52.219-14 LIMITATIONS ON SUBCONTRACTING (MAR 2020)**

***Note: For Ordering Activity level requirements, please consult the applicability note within this document at 52.219-13 Notice of Set-Aside of Orders.***

(a) This clause does not apply to the unrestricted portion of a partial set-aside.

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside for small business concerns or 8(a) participants;

(2) Part or parts of a multiple-award contract that have been set aside for small business concerns or 8(a) participants;

(3) Orders set aside for small business concerns or 8(a) participants under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F); and

(4) Orders issued directly to small business concerns or 8(a) participants under multiple-award contracts as described in [19.504](https://www.acquisition.gov/far/part-19#FAR_19_504)(c)(1)(ii).

(c) *Limitations on subcontracting.* By submission of an offer and execution of a contract, the Contractor agrees that in performance of the contract in the case of a contract for—

(1) *Services (except construction)*. At least 50 percent of the cost of contract performance incurred for personnel shall be expended for employees of the concern.

(2) *Supplies (other than procurement from a nonmanufacturer of such supplies)*. The concern shall perform work for at least 50 percent of the cost of manufacturing the supplies, not including the cost of materials.

(3) *General construction*. The concern will perform at least 15 percent of the cost of the contract, not including the cost of materials, with its own employees.

(4) *Construction by special trade contractors*. The concern will perform at least 25 percent of the cost of the contract, not including the cost of materials, with its own employees.

(d) The Contractor shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraph (b)(1) and (2) of this clause—

[*Contracting Officer check as appropriate.*]

\_ By the end of the base term of the contract and then by the end of each subsequent option period; or

\_ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (b)(3) and (4) of this clause, by the end of the performance period for the order.

**52.219-27 NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (MAR 2020)**

***Note: Please consult the applicability note within this document at 52.219-13 Notice of Set-Aside of Orders.***

(a) *Definition*. "Service-disabled veteran-owned small business concern"—

(1) Means a small business concern–

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) "Service-disabled veteran" means a veteran, as defined in [38 U.S.C.101(2)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), with a disability that is service-connected, as defined in [38 U.S.C.101(16)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3).

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside for service-disabled veteran-owned small business concerns;

(2) Part or parts of a multiple-award contract that have been set aside for service-disabled veteran-owned small business concerns;

(3) Orders set aside for service-disabled veteran-owned small business concerns under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F); and

(4) Orders issued directly to service-disabled veteran-owned small business concerns under multiple-award contracts as described in [19.504](https://www.acquisition.gov/far/part-19#FAR_19_504)(c)(1)(ii).

(c) General.

(1) Offers are solicited only from service-disabled veteran-owned small business concerns. Offers received from concerns that are not service-disabled veteran-owned small business concerns shall not be considered.

(2) Any award resulting from this solicitation will be made to a service-disabled veteran-owned small business concern.

(d) *Limitations on subcontracting*. A service-disabled veteran-owned small business concern agrees that in the performance of the contract, in the case of a contract for—

(1) Services (except construction), at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern or employees of other service-disabled veteran-owned small business concerns;

(2) Supplies (other than acquisition from a nonmanufacturer of the supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern or other service-disabled veteran-owned small business concerns;

(3) General construction, at least 15 percent of the cost of the contract performance incurred for personnel will be spent on the concern’s employees or the employees of other service-disabled veteran-owned small business concerns; or

(4) Construction by special trade contractors, at least 25 percent of the cost of the contract performance incurred for personnel will be spent on the concern’s employees or the employees of other service-disabled veteran-owned small business concerns.

(e) A service-disabled veteran-owned small business concern shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraphs (b)(1) and (2) of this clause—

[*Contracting Officer check as appropriate.*]

\_ By the end of the base term of the contract and then by the end of each subsequent option period; or

\_ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (b)(3) and (4) of this clause, by the end of the performance period for the order.

(f) A joint venture may be considered a service-disabled veteran owned small business concern if-

(1) At least one member of the joint venture is a service-disabled veteran-owned small business concern, and makes the following representations: That it is a service-disabled veteran-owned small business concern, and that it is a small business concern under the North American Industry Classification Systems (NAICS) code assigned to the procurement;

(2) Each other concern is small under the size standard corresponding to the NAICS code assigned to the procurement; and

(3) The joint venture meets the requirements of 13 CFR 121.103(h)

(4) The joint venture meets the requirements of 13 CFR125.15(b)

**52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (NOV 2020)**

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

*Long-term contract* means a contract of more than five years in duration, including options. However, the term does not include contracts that exceed five years in duration because the period of performance has been extended for a cumulative period not to exceed six months under the clause at [52.217-8](https://www.acquisition.gov/far/part-52#FAR_52_217_8), Option to Extend Services, or other appropriate authority.

*Small business concern*—

(1) Means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR part 121 and the size standard in paragraph (d) of this clause. Such a concern is “not dominant in its field of operation” when it does not exercise a controlling or major influence on a national basis in a kind of business activity in which a number of business concerns are primarily engaged. In determining whether dominance exists, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.

(2) *Affiliates*, as used in this definition, means business concerns, one of whom directly or indirectly controls or has the power to control the others, or a third party or parties control or have the power to control the others. In determining whether affiliation exists, consideration is given to all appropriate factors including common ownership, common management, and contractual relationships. SBA determines affiliation based on the factors set forth at 13 CFR 121.103.

(b) If the Contractor represented that it was any of the small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, upon occurrence of any of the following:

(1) Within 30 days after execution of a novation agreement or within 30 days after modification of the contract to include this clause, if the novation agreement was executed prior to inclusion of this clause in the contract.

(2) Within 30 days after a merger or acquisition that does not require a novation or within 30 days after modification of the contract to include this clause, if the merger or acquisition occurred prior to inclusion of this clause in the contract.

(3) For long-term contracts-

(i) Within 60 to 120 days prior to the end of the fifth year of the contract; and

(ii) Within 60 to 120 days prior to the date specified in the contract for exercising any option thereafter.

(c) If the Contractor represented that it was any of the small business concerns identified in [19.000](https://www.acquisition.gov/far/part-19#FAR_19_000)(a)(3) prior to award of this contract, the Contractor shall rerepresent its size and socioeconomic status according to paragraph (f) of this clause or, if applicable, paragraph (h) of this clause, when the Contracting Officer explicitly requires it for an order issued under a multiple-award contract.

(d) The Contractor shall rerepresent its size status in accordance with the size standard in effect at the time of this rerepresentation that corresponds to the North American Industry Classification System (NAICS) code(s) assigned to this contract. The small business size standard corresponding to this NAICS code(s) can be found at <https://www.sba.gov/document/support--table-size-standards>.

(e) The small business size standard for a Contractor providing a product which it does not manufacture itself, for a contract other than a construction or service contract, is 500 employees.

(f) Except as provided in paragraph (h) of this clause, the Contractor shall make the representation(s) required by paragraph (b) and (c) of this clause by validating or updating all its representations in the Representations and Certifications section of the System for Award Management (SAM) and its other data in SAM, as necessary, to ensure that they reflect the Contractor's current status. The Contractor shall notify the contracting office in writing within the timeframes specified in paragraph (b) of this clause, or with its offer for an order (see paragraph (c) of this clause), that the data have been validated or updated, and provide the date of the validation or update.

(g) If the Contractor represented that it was other than a small business concern prior to award of this contract, the Contractor may, but is not required to, take the actions required by paragraphs (f) or (h) of this clause.

(h) If the Contractor does not have representations and certifications in SAM, or does not have a representation in SAM for the NAICS code applicable to this contract, the Contractor is required to complete the following rerepresentation and submit it to the contracting office, along with the contract number and the date on which the rerepresentation was completed:

(1) The Contractor represents that it *□* is, *□* is not a small business concern under NAICS Code \_\_\_\_\_ assigned to contract number \_\_\_\_\_.

(2) [ *Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause*.] The Contractor represents that it *□* is, *□* is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) [ *Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.* ] The Contractor represents that it *□* is, *□* is not a women-owned small business concern.

(4) Women-owned small business (WOSB) concern eligible under the WOSB Program. [*Complete only if the Contractor represented itself as a women-owned small business concern in paragraph (h)(3) of this clause.*] The Contractor represents that—

(i) It *□* is, *□* is not a WOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It *□* is, *□* is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (h)(4)(i) of this clause is accurate for each WOSB concern eligible under the WOSB Program participating in the joint venture. *[The Contractor shall enter the name or names of the WOSB concern eligible under the WOSB Program and other small businesses that are participating in the joint venture:\_\_\_\_\_.]* Each WOSB concern eligible under the WOSB Program participating in the joint venture shall submit a separate signed copy of the WOSB representation.

(5) Economically disadvantaged women-owned small business (EDWOSB) concern.[*Complete only if the Contractor represented itself as a women-owned small business concern eligible under the WOSB Program in (h)(4) of this clause.* ] The Contractor represents that—

(i) It *□* is, *□* is not an EDWOSB concern eligible under the WOSB Program, has provided all the required documents to the WOSB Repository, and no change in circumstances or adverse decisions have been issued that affects its eligibility; and

(ii) It *□* is, *□* is not a joint venture that complies with the requirements of 13 CFR part 127, and the representation in paragraph (h)(5)(i) of this clause is accurate for each EDWOSB concern participating in the joint venture. [The Contractor shall enter the name or names of the EDWOSB concern and other small businesses that are participating in the joint venture: \_\_\_\_\_.] Each EDWOSB concern participating in the joint venture shall submit a separate signed copy of the EDWOSB representation.

(6) [ *Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.* ] The Contractor represents that it *□* is, *□* is not a veteran-owned small business concern.

(7) [ *Complete only if the Contractor represented itself as a veteran-owned small business concern in paragraph (h)(6) of this clause.*] The Contractor represents that it *□* is, *□* is not a service-disabled veteran-owned small business concern.

(8) [ *Complete only if the Contractor represented itself as a small business concern in paragraph (h)(1) of this clause.* ] The Contractor represents that—

(i) It *□* is, *□* is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material changes in ownership and control, principal office, or HUBZone employee percentage have occurred since it was certified in accordance with 13 CFR part 126; and

(ii) It *□* is, *□* is not a HUBZone joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (h)(8)(i) of this clause is accurate for each HUBZone small business concern participating in the HUBZone joint venture. *[The Contractor shall enter the names of each of the HUBZone small business concerns participating in the HUBZone joint venture: \_\_\_\_\_.]* Each HUBZone small business concern participating in the HUBZone joint venture shall submit a separate signed copy of the HUBZone representation.

[*Contractor to sign and date and insert authorized signer's name and title.*]

|  |  |
| --- | --- |
| **AUTHORIZED SIGNER'S NAME** | **AUTHORIZED SIGNER'S TITLE** |
|  |  |

**52.219-29 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS (MAR 2020)**

***Note: Please consult the applicability note within this document at 52.219-13 Notice of Set-Aside of Orders.***

(a) Definitions. "Economically disadvantaged women-owned small business (EDWOSB) concern" means—

A small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States and who are economically disadvantaged in accordance with 13 CFR part 127. It automatically qualifies as a women-owned small business (WOSB) concern eligible under the WOSB Program.

*WOSB Program Repository* means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability*. This clause applies only to—

(1) Contracts that have been set aside for, or awarded on a sole source basis to, EDWOSB concerns;

(2) Part or parts of a multiple-award contract that have been set aside for EDWOSB concerns;

(3) Orders set aside for EDWOSB concerns under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F); and

(4) Orders issued directly to EDWOSB concerns under multiple-award contracts as described in [19.504](https://www.acquisition.gov/far/part-19#FAR_19_504)(c)(1)(ii).

(c) General.

(1) Offers are solicited only from EDWOSB concerns. Offers received from concerns that are not EDWOSB concerns will not be considered.

(2) Any award resulting from this solicitation will be made to an EDWOSB concern.

(3) The Contracting Officer will ensure that the apparent successful offeror has provided all required documents to the WOSB Program Repository. The contract will not be awarded until all required documents are received.

(d) *Limitations on subcontracting.* An EDWOSB concern agrees that in the performance of the contract for—

(1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;

(2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);

(3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and

(4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including the cost of materials).

(e) An EDWOSB concern shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraphs (b)(1) and (2) of this clause—

[*Contracting Officer check as appropriate.*]

\_ By the end of the base term of the contract and then by the end of each subsequent option period; or

\_ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (b)(3) and (4) of this clause, by the end of the performance period for the order.

(f) Joint Venture. A joint venture may be considered an EDWOSB concern if—

(1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);

(2) The EDWOSB participant of the joint venture is designated in the System for Award Management as an EDWOSB concern;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions–

(i) Setting forth the purpose of the joint venture;

(ii) Designating an EDWOSB concern as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the EDWOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the EDWOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the EDWOSB contract performed by the joint venture.

(4) The joint venture performs the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the EDWOSB or joint venture.

**52.219-30 NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM (MAR 2020)**

***Note: Please consult the applicability note within this document at 52.219-13 Notice of Set-Aside of Orders.***

(a) Definitions. "Women-owned small business (WOSB) concern eligible under the WOSB Program" (in accordance with 13 CFR 127), means a small business concern that is at least 51 percent directly and unconditionally owned by, and the management and daily business operations of which are controlled by, one or more women who are citizens of the United States.

*WOSB Program Repository* means a secure, Web-based application that collects, stores, and disseminates documents to the contracting community and SBA, which verify the eligibility of a business concern for a contract to be awarded under the WOSB Program.

(b) *Applicability*. This clause applies only to-

(1) Contracts that have been set aside for, or awarded on a sole source basis to, WOSB concerns eligible under the WOSB Program;

(2) Part or parts of a multiple-award contract that have been set aside for WOSB concerns eligible under the WOSB Program;

(3) Orders set aside for WOSB concerns eligible under the WOSB Program, under multiple-award contracts as described in [8.405-5](https://www.acquisition.gov/far/part-8#FAR_8_405_5) and [16.505](https://www.acquisition.gov/far/part-16#FAR_16_505)(b)(2)(i)(F); and

(4) Orders issued directly to WOSB concerns eligible under the WOSB Program under multiple-award contracts as described in [19.504](https://www.acquisition.gov/far/part-19#FAR_19_504)(c)(1)(ii).

(c) General.

(1) Offers are solicited only from WOSB concerns eligible under the WOSB Program. Offers received from concerns that are not WOSB concerns eligible under the WOSB program shall not be considered.

(2) Any award resulting from this solicitation will be made to a WOSB concern eligible under the WOSB Program.

(3) The Contracting Officer will ensure that the apparent successful offeror has provided the required documents to the WOSB Program Repository. The contract shall not be awarded until all required documents are received.

(d) *Limitations on subcontracting.* A WOSB concern eligible under the WOSB Program agrees that in the performance of the contract for-

(1) Services (except construction), the concern will perform at least 50 percent of the cost of the contract incurred for personnel with its own employees;

(2) Supplies or products (other than procurement from a non-manufacturer in such supplies or products), the concern will perform at least 50 percent of the cost of manufacturing the supplies or products (not including the costs of materials);

(3) General construction, the concern will perform at least 15 percent of the cost of the contract with its own employees (not including the costs of materials); and

(4) Construction by special trade contractors, the concern will perform at least 25 percent of the cost of the contract with its own employees (not including cost of materials).

(e) A WOSB concern eligible under the WOSB Program shall comply with the limitations on subcontracting as follows:

(1) For contracts, in accordance with paragraphs (b)(1) and (2) of this clause—

[*Contracting Officer check as appropriate.*]

\_ By the end of the base term of the contract and then by the end of each subsequent option period; or

\_ By the end of the performance period for each order issued under the contract.

(2) For orders, in accordance with paragraphs (b)(3) and (4) of this clause, by the end of the performance period for the order.

(f) *Joint Venture*. A joint venture may be considered a WOSB concern eligible under the WOSB Program if-

(1) It meets the applicable size standard corresponding to the NAICS code assigned to the contract, unless an exception to affiliation applies pursuant to 13 CFR 121.103(h)(3);

(2) The WOSB participant of the joint venture is designated in the System for Award Management as a WOSB concern;

(3) The parties to the joint venture have entered into a written joint venture agreement that contains provisions–

(i) Setting forth the purpose of the joint venture;

(ii) Designating a WOSB concern eligible under the WOSB Program as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for the performance of the contract;

(iii) Stating that not less than 51 percent of the net profits earned by the joint venture will be distributed to the WOSB;

(iv) Specifying the responsibilities of the parties with regard to contract performance, sources of labor, and negotiation of the WOSB contract; and

(v) Requiring the final original records be retained by the managing venturer upon completion of the WOSB contract performed by the joint venture.

(4) The joint venture must perform the applicable percentage of work required in accordance with paragraph (d) above; and

(5) The procuring activity executes the contract in the name of the WOSB concern eligible under the WOSB Program or joint venture.

**52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JUN 2020)**

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

     "Active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," "qualified disabled veteran," and "recently separated veteran" have the meanings given at Federal Acquisition Regulation (FAR)[22.1301](https://www.acquisition.gov/far/part-22#FAR_22_1301).

(b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts valued at or above the threshold specified in FAR [22.1303](https://www.acquisition.gov/far/part-22#FAR_22_1303)(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

**52.222-36 EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUN 2020)**

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of the threshold specified in Federal Acquisition Regulation (FAR) [22.1408](https://www.acquisition.gov/far/part-22#FAR_22_1408)(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

**52.222-37 EMPLOYMENT REPORTS ON VETERANS (JUN 2020)**

(a) *Definitions.* As used in this clause, "active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," and "recently separated veteran," have the meanings given in Federal Acquisition Regulation (FAR)[22.1301](https://www.acquisition.gov/far/part-22#FAR_22_1301).

(b) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on-

(1) The total number of employees in the contractor’s workforce, by job category and hiring location, who are protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans);

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans); and

(3) The maximum number and minimum number of employees of the Contractor or subcontractor at each hiring location during the period covered by the report.

(c) The Contractor shall report the above items by filing the VETS-4212 "Federal Contractor Veterans’ Employment Report" (see "VETS-4212 Federal Contractor Reporting" and "Filing Your VETS-4212 Report" at <http://www.dol.gov/vets/vets4212.htm>).

(d) The Contractor shall submit VETS-4212 Reports no later than September 30 of each year.

(e) The employment activity report required by paragraphs (b)(2) and (b)(3) of this clause shall reflect total new hires, and maximum and minimum number of employees, during the most recent 12–month period preceding the ending date selected for the report. Contractors may select an ending date-

(1) As of the end of any pay period between July 1 and August 31 of the year the report is due; or

(2) As of December 31, if the Contractor has prior written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(f) The number of veterans reported must be based on data known to the contractor when completing the VETS-4212. The contractor’s knowledge of veterans status may be obtained in a variety of ways, including an invitation to applicants to self-identify (in accordance with 41 CFR 60-300.42), voluntary self-disclosure by employees, or actual knowledge of veteran status by the contractor. This paragraph does not relieve an employer of liability for discrimination under [38 U.S.C.4212](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3).

(g) The Contractor shall insert the terms of this clause in subcontracts valued at or above the threshold specified in FAR [22.1303](https://www.acquisition.gov/far/part-22#FAR_22_1303)(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor.

**52.222-50 COMBATING TRAFFICKING IN PERSONS (OCT 2020)**

(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.

(1) Any item of supply (including construction material) that is-

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](https://www.acquisition.gov/far/part-2#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)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), such as agricultural products and petroleum products.

"Commercially available off-the-shelf (COTS) item" means-

(1) Any item of supply (including construction material) that is-

(i) A commercial item (as defined in paragraph (1) of the definition at FAR [2.101](https://www.acquisition.gov/content/part-2-definitions-words-and-terms#i1125359));

(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)](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), 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](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3), Fraud in Foreign Labor Contracting, and [52.203-13](https://www.acquisition.gov/far/part-52#FAR_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](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)), 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](mailto: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.

**52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (NOV 2020)**

***Note: This clause applies to certain offerors of services under SIN C-100. Please refer to the “SIN C-100: Additional Representations/Requirements” section of Vendor Response Document 02 for further information.***

(a) Definitions. As used in this clause–

*Seasonal recreational equipment rental* means any equipment rental in connection with seasonal recreational services.

*Seasonal recreational services* means services that include: river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

*United States* means the 50 states and the District of Columbia.

*Worker* –

(1) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 13658, and-

(i) Whose wages under such contract are governed by the Fair Labor Standards Act ([29 U.S.C. chapter 8](http://uscode.house.gov/)), the Service Contract Labor Standards statute ([41 U.S.C. chapter 67](http://uscode.house.gov/browse.xhtml;jsessionid=114A3287C7B3359E597506A31FC855B3)), or the Wage Rate Requirements (Construction) statute ([40 U.S.C. chapter 31](http://uscode.house.gov/), subchapter IV);

(ii) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541; and

(iii) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(2) Includes workers performing on, or in connection with, the contract whose wages are calculated pursuant to special certificates issued under [29 U.S.C. 214(c)](http://uscode.house.gov/).

(3) Also includes any person working on, or in connection with, the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor’s Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(b) Executive Order Minimum wage rate.

(1) The Contractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this contract, a minimum hourly wage rate of $10.10 per hour beginning January 1, 2015.

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016, and annually thereafter, to meet the applicable annual E.O. minimum wage. The Administrator of the Department of Labor’s Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on [http://www.wdol.gov](http://www.wdol.gov/) (or any successor website), and a general notice on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, that will provide information on the E.O. minimum wage and how to obtain annual updates. The applicable published E.O. minimum wage is incorporated by reference into this contract.

(3) (i) The Contractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of an increase in the annual E.O. minimum wage, and for associated labor costs (including those for subcontractors). Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers’ compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Subcontractors may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Contractors shall consider any subcontractor requests for such price adjustment.

(iii) The Contracting Officer will not adjust the contract price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Contractor warrants that the prices in this contract do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) A pay period under this clause may not be longer than semi-monthly, but may be shorter to comply with any applicable law or other requirement under this contract establishing a shorter pay period. Workers shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued.

(6) The Contractor shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Contractor may make deductions that reduce a worker’s wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 10.23, Deductions.

(7) The Contractor shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(8) Nothing in this clause shall excuse the Contractor from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.

(9) The Contractor shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(10) The Contractor shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than $30 a month in tips.

(c) (1) This clause applies to workers as defined in paragraph (a). As provided in that definition–

(i) Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under [29 U.S.C. 214(c)](http://uscode.house.gov/) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor’s Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to–

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., *i.e.* those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under [29 U.S.C. 213(a)](http://uscode.house.gov/) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to-

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under [29 U.S.C. 214(a)](http://uscode.house.gov/) ;

(B) Students whose wages are calculated pursuant to special certificates issued under [29 U.S.C. 214(b)](http://uscode.house.gov/) ; and

(C) Those employed in a bona fide executive, administrative, or professional capacity [(29 U.S.C. 213(a)(1)](http://uscode.house.gov/) and 29 CFR part 541); or

(iii) Seasonal recreational services or seasonal recreational equipment rental for the general public on Federal lands, except for lodging and food services associated with seasonal recreational services, in accordance with [Executive Order 13838](https://www.federalregister.gov/executive-order/13838), Exemption from [Executive Order 13658](https://www.federalregister.gov/executive-order/13658) for Recreational Services on Federal Lands (3 CFR, 2018 Comp., p. 831), as implemented by the U.S. Department of Labor regulations at [29 CFR 10.4(g)](https://www.federalregister.gov/select-citation/2020/10/23/29-CFR-10.4).

(d) Notice. The Contractor shall notify all workers performing work on, or in connection with, this contract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Contractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Contractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at <http://www.dol.gov/whd/govcontracts>, in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the contractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) Payroll Records.

 (1) The Contractor shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

(i) Name, address, and social security number;

(ii) The worker’s occupation(s) or classification(s);

(iii) The rate or rates of wages paid;

(iv) The number of daily and weekly hours worked by each worker;

(v) Any deductions made; and

(vi) Total wages paid.

(2) The Contractor shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Contractor shall also make such records available upon request of the Contracting Officer.

(3) The Contractor shall make a copy of the contract available, as applicable, for inspection or transcription by authorized representatives of the Administrator.

(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 10.26 and this contract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

(5) Nothing in this clause limits or otherwise modifies the Contractor’s payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.

(f) Access. The Contractor shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.

(g) Withholding. The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Contractor under this or any other Federal contract with the same Contractor, sufficient to pay workers the full amount of wages required by this clause.

(h) Disputes. Department of Labor has set forth in 29 CFR 10.51, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor’s compliance with Department of Labor regulations at 29 CFR Part 10. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. These disputes include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

(i) Antiretaliation. The Contractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.

(j) Subcontractor compliance. The Contractor is responsible for subcontractor compliance with the requirements of this clause and may be held liable for unpaid wages due subcontractor workers.

(k) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (k) in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

**52.223-18 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](https://www.acquisition.gov/far/part-2#FAR_2_101) on the date of subcontract award.

**52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (NOV 2020)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any 48 CFR Chapter 5 clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

**552.238-77 SUBMISSION AND DISTRIBUTION OF AUTHORIZED FEDERAL SUPPLY SCHEDULE (FSS) PRICE LISTS (MAR 2020) (TAILORED)**

(a) The Contractor shall submit its Authorized Federal Supply Schedule Price List on a common-use electronic medium as prescribed by VA.  Some structured data entry in a prescribed format may be required.

(b) Eligible ordering activities will utilize GSA’s online shopping and ordering system to review a Contractors’ price lists.

**552.238-80 INDUSTRIAL FUNDING FEE AND SALES REPORTING (JUL 2020) (TAILORED)**

(a)  Reporting of Federal Supply Schedule Sales. The Contractor shall report all contract sales under this contract as follows:

(1)  The Contractor shall accurately report the dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this contract by calendar quarter (January 1-March 31, April 1-June 30, July 1-September 30, and October 1-December 31). The dollar value of a sale is the price paid by the Schedule user for products and services on a Schedule task or delivery order. The reported contract sales value shall include the Industrial Funding Fee (IFF). The Contractor shall maintain a consistent accounting method of sales reporting, based on the Contractor's established commercial accounting practice. The acceptable points at which sales may be reported include–

(i)  Receipt of order;

(ii)  Shipment or delivery, as applicable;

(iii)  Issuance of an invoice; or

(2)  Contract sales shall be reported to FSS within 60 calendar days following the completion of each reporting quarter. The Contractor shall continue to furnish quarterly reports, including “zero” sales, through physical completion of the last outstanding task order or delivery order of the contract.

(3) Reportable sales under the contract are those resulting from sales of contract items to authorized users unless the purchase was conducted pursuant to a separate contracting authority such as a Governmentwide Acquisition Contract (GWAC); a separately awarded FAR Part 12, FAR Part 13, FAR Part 14, or FAR Part 15 procurement; or a non-FAR contract. Sales made to state and local governments under Cooperative Purchasing authority shall be counted as reportable sales for IFF purposes.

(4)  The Contractor shall electronically report the quarterly dollar value of sales, including “zero” sales, by utilizing the automated reporting system at an Internet website designated by the Veterans Affairs (VA) Federal Supply Service (FSS). Prior to using this automated system, the Contractor shall complete contract registration with the VA Sales Reporting System. The website address, as well as registration instructions and reporting procedures, will be provided at the time of award. The Contractor shall report sales separately for each National Stock Number (NSN), Special Item Number (SIN), or sub-item.

(5)  The Contractor shall convert the total value of sales made in foreign currency to U.S. dollars using the “Treasury Reporting Rates of Exchange” issued by the U.S. Department of Treasury, Financial Management Service. The Contractor shall use the issue of the Treasury report in effect on the last day of the calendar quarter. The report is available from Financial Management Service, International Funds Branch, Telephone: (202) 874-7994, Internet: <http://www.fiscal.treasury.gov/fsreports/rpt/treasRptRateExch/treasRptRateExch_home.htm>.

(b)  The Contractor shall remit the IFF at the rate set by VA's FSS.

(1)  The Contractor shall remit the IFF to FSS in U.S. dollars within 60 calendar days after the end of the reporting quarter; final payment shall be remitted within 60 days after physical completion of the last outstanding task order or delivery order of the contract.

(2)  The IFF represents a percentage of the total quarterly sales reported. This percentage is set at the discretion of VA's FSS. VA's FSS has the unilateral right to change the percentage at any time, but not more than once per year. FSS will provide reasonable notice prior to the effective date of the change. The IFF reimburses FSS for the costs of operating the Federal Supply Schedules Program. FSS recoups its operating costs from ordering activities as set forth in 40 U.S.C. 321: Acquisition Services Fund. Net operating revenues generated by the IFF are also applied to fund initiatives benefitting other authorized FSS programs, in accordance with 40 U.S.C. 321. Offerors must include the IFF in their prices. The fee is included in the award price(s) and reflected in the total amount charged to ordering activities. FSS will post notice of the current IFF in the note following this clause.

(c)  Within 60 days of award, an FSS representative will provide the Contractor with specific written procedural instructions on remitting the IFF. FSS reserves the unilateral right to change such instructions from time to time, following notification to the Contractor.

(d) Failure to remit the full amount of the IFF within 60 calendar days after the end of the applicable reporting period constitutes a contract debt to the United States Government under the terms of FAR Subpart 32.6. The Government may exercise all rights under the Debt Collection Improvement Act of 1996, including withholding or setting off payments and interest on the debt (see FAR clause 52.212-4(i)(6). Should the Contractor fail to submit the required sales reports, falsify them, or fail to timely pay the IFF, this is sufficient cause for the Government to terminate the contract for cause.

***NOTE:*** *The IFF fee for this schedule equals* ***0.5% (one half of one percent)*** *of the total quarterly sales reported. Remittance should be calculated using the following method: The awarded Schedule sales price times the IFF percentage.*

***Example:*** *Total sales for the quarter is $1,000,000 and the IFF is 0.5%*

*($1,000,000 \* 0.005) = $5,000 (IFF due)*

*In partnership with the General Services Administration (GSA), VA’s FSS is collecting quarterly sales report figures and IFF quarterly payments through the VA Sales Online Portal:* [*https://vasalesportal.gsa.gov*](https://vasalesportal.gsa.gov)*. Contractors are required to input their sales using this online sales reporting system. IFF payments can be remitted through this portal as well via Pay.gov.*

***NOTICE REGARDING SCHEDULE SALES (FEB 2019)***

*The following shall be reported as FSS sales and the IFF collected and remitted:*

1. *Task or delivery orders referencing an FSS contract number.*
2. *Sales under Blanket Purchase Agreements (BPAs) awarded against FSS contracts.*
3. *Sales of items awarded under an FSS contract and shipped to a Government prime vendor that are ultimately sold to a Federal Government activity, including sales of items awarded on the VA Strategic Acquisition Center’s Med Surge Prime Vendor (MSPV) program via Blanket Purchase Agreements (BPAs) against FSS contracts.*

*The following are sales that shall not be reported as FSS sales; therefore, an IFF subject to FSS contract terms and conditions shall not be collected and remitted:*

1. *Orders placed under a Department of Defense Distribution and Pricing Agreement (DAPA).*
2. *Orders placed under the MSPV program when the orders are placed under an Indefinite Delivery type contract that was not solicited and awarded under FSS (i.e. as an open market procurement).*

**552.238-82 MODIFICATIONS (FEDERAL SUPPLY SCHEDULES) (MAR 2020, ALTERNATE I – MAY 2019) (TAILORED)**

(a)  *General*. The Contractor may request a contract modification by submitting a request to the Contracting Officer for approval, except as noted in paragraph (d) of this clause. At a minimum, every request shall describe the proposed change(s) and provide the rationale for the requested change(s).

(b) *Types of modifications*—

(1)  Additional items/additional SINs. When requesting additions, the following information must be submitted:

(i)  *Information requested in paragraphs* (1) and (2) of the Commercial Sales Practice Format to add SINs.

(ii)  Discount information for the new item(s) or new SIN(s). Specifically, submit the information requested in paragraphs 3 through 5 of the Commercial Sales Practice Format. If this information is the same as the initial award, a statement to that effect may be submitted instead.

(iii)  Information about the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(iv)  Delivery time(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted in accordance with the request for proposal.

(v) Production point(s) for the new item(s) or the item(s) under the new SIN(s) must be submitted if required by FAR 52.215-6, Place of Performance.

(vi) Hazardous Material information (if applicable) must be submitted as required by FAR 52.223-3 (Alternate I), Hazardous Material Identification and Material Safety Data.

(vii) Any information requested by FAR 52.212-3(f), Offeror Representations and Certifications-Commercial Items, that may be necessary to assure compliance with FAR 52.225-5, Trade Agreements.

(2)  *Deletions*. The Contractors shall provide an explanation for the deletion. The Government reserves the right to reject any subsequent offer of the same item or a substantially equal item at a higher price during the same contract period, if the contracting officer finds the higher price to be unreasonable when compared with the deleted item.

(3)  *Price reduction*. The Contractor shall indicate whether the price reduction falls under the item (i), (ii), or (iii) of paragraph (c)(1) of the Price Reductions clause at [552.238-81](https://www.acquisition.gov/content/part-552-solicitation-provisions-and-contract-clauses#i1874127). If the Price reduction falls under item (i), the Contractor shall transmit a copy of the dated commercial price list. If the price reduction falls under item (ii) or (iii), the Contractor shall transmit a copy of the applicable price list(s), bulletins or letters or customer agreements which outline the effective date, duration, terms and conditions of the price reduction. ***NOTE: This also applies to temporary price reductions.***

(c)  *Effective dates*. The effective date of any modification is the date specified in the modification, except as otherwise provided in the Price Reductions clause at [552.238-81](https://www.acquisition.gov/content/part-552-solicitation-provisions-and-contract-clauses#i1874127).

(d) Electronic file updates. The Contractor shall update electronic file submissions to reflect all modifications. For additional items or SINs, the Contractor shall obtain the Contracting Officer's approval before transmitting changes. Contract modifications will not be made effective until the Government receives the electronic file updates. The Contractor may transmit price reductions, item deletions, and corrections without prior approval. However, the Contractor shall notify the Contracting Officer as set forth in the Price Reductions clause at [552.238-81](https://www.acquisition.gov/content/part-552-solicitation-provisions-and-contract-clauses#i1874127).

(e) Electronic submission of modification requests is mandatory.

***NOTE: The effective dates for most approved modifications will be determined on the following basis:***

1. ***If the Contracting Officer approves the modification request between the 11th and the 25th of the month, the effective date will be the 1st of the following month.***
2. ***If the Contracting Officer approves the modification request between the 26th of the current month and the 10th of the following month, the effective date will be the 15th of the following month.***

**I-FSS-600 CONTRACT PRICE LISTS (OCT 2020, TAILORED)**

(a) Electronic Contract Data.

(1) At the time of award, the Contractor will be provided instructions for submitting electronic contract data in a prescribed electronic format as required by clause 552.238 77, Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists.

(2) The Contractor will have a choice to transmit its file submissions electronically through Electronic Data Interchange (EDI) in accordance with the Federal Implementation Convention (IC) or use the application made available at the time of award. The Contractor’s electronic files must be complete; correct; readable; virus free; and contain only those supplies and services, prices, and terms and conditions that were accepted by the Government. They will be added to GSA’s electronic ordering system known as GSA Advantage!®, a menu driven database system that provides on-line access to contract ordering information, terms and conditions, up to date pricing, and the option to create an electronic order. The Contractor’s electronic files must be received no later than 30 days after award. Contractors should refer to clause 552.238-88 GSA Advantage!® for further information.

(3) Further details on EDI, ICs, and GSA Advantage! ® can be found in clause 552.238-103, Electronic Commerce.

(4) The Contractor is encouraged to place the GSA identifier (logo) on their web site for those supplies or services covered by this contract. The logo can link to the contractor’s Federal Supply Schedule price list. The identifier URL is located at <http://www.gsa.gov/logos>. All resultant “web price lists” shown on the contractor’s web site must be in accordance with section (b)(3)(ii) of this clause and nothing other than what was accepted /awarded by the Government) may be included. If the contractor elects to use contract identifiers on its website (either logos or contact number) the website must clearly distinguish between those items awarded on the contract and any other items offered by the contractor on an open market basis.

(5) The contractor is responsible for keeping all electronic catalogs data up to date; e.g., prices, product deletions and replacements, etc.

(b) Federal Supply Schedule Price Lists.

(1) The Contractor must also prepare and distribute a Federal Supply Schedule Price List as required by clause 552.238 77, Submission and Distribution of Authorized Federal Supply Schedule (FSS) Price Lists. This must be done as set forth in this paragraph (b).

(2) The Contractor must prepare a Federal Supply Schedule Price List by composing a price list in which only those items, terms, and conditions accepted by the Government are included, and which contain only net prices, based upon the commercial price list or commercial market prices less discounts accepted by the Government. In this instance, the Contractor must show on the cover page the notation "Prices Shown Herein are Net (discount deducted)”.

(3) The cover page of the Federal Supply Schedule Price List must include the following information prepared in the format set forth in this subparagraph (b)(3):

(i) DEPARTMENT OF VETERANS AFFAIRS

Federal Supply Schedule Service

Authorized Federal Supply Schedule Price List

On-line access to contract ordering information, terms and conditions, up to date pricing, and the option to create an electronic delivery order are available through GSA Advantage!®, a menu driven database system. The INTERNET address GSA Advantage!® is: GSAAdvantage.gov.

Schedule Title

FSC Group, Part, and Section or Standard Industrial Group (as applicable)

FSC Class(es)/Product code(s) and/or Service Codes (as applicable)

Contract number

For more information on ordering from Federal Supply Schedules go to the GSA Schedules page at GSA.gov.

Contract period.

Contractor's name, address, and phone number (include toll free WATS number and FAX number, if applicable)

Contractor’s internet address/web site where schedule information can be found (as applicable). Contract administration source (if different from preceding entry).

Business size.

(ii) CUSTOMER INFORMATION: The following information should be placed under this heading in consecutively numbered paragraphs in the sequence set forth below. If this information is placed in another part of the Federal Supply Schedule Price List, a table of contents must be shown on the cover page that refers to the exact location of the information.

1a. Table of awarded special item number(s) with appropriate cross reference to item descriptions and awarded price(s).

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item.

2. Maximum order.

3. Minimum order.

4. Geographic coverage (delivery area).

5. Point(s) of production (city, county, and State or foreign country).

6. Discount from list prices or statement of net price.

7. Quantity discounts.

8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."

9. Foreign items (list items by country of origin).

10a. Time of delivery. (Contractor insert number of days.)

10b. Expedited Delivery. The Contractor will insert the sentence “Items available for expedited delivery are noted in this price list.” under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.

10c. Overnight and 2 day delivery. The Contractor will indicate whether overnight and 2 day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2 day delivery.

10d. Urgent Requirements. The Contractor will note in its price list the “Urgent Requirements” clause of its contract and advise agencies that they can also contact the Contractor’s representative to effect a faster delivery.

11. F.O.B. point(s).

12a. Ordering address(es).

12b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA’s) are found in Federal Acquisition Regulation (FAR) 8.405-3.

13. Payment address(es).

14. Warranty provision.

15. Export packing charges, if applicable.

16. Terms and conditions of rental, maintenance, and repair (if applicable).

17. Terms and conditions of installation (if applicable).

18a. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

18b. Terms and conditions for any other services (if applicable).

19. List of service and distribution points (if applicable).

20. List of participating dealers (if applicable).

21. Preventive maintenance (if applicable).

22a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

22b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor’s website or other location.) The EIT standards can be found at: www.Section508.gov/.

23. Data Universal Number System (DUNS) number.

24. Notification regarding registration in System for Award Management (SAM) database.

(4) Amendments to Federal Supply Schedule Price Lists must include on the cover page the same information as the basic document plus the title "Supplement No. (sequentially numbered)" and the effective date(s) of such supplements.

(5) Accuracy of information and computation of prices is the responsibility of the Contractor.

(6) Inclusion of incorrect information will cause the Contractor to resubmit/correct the Federal Supply Schedule Price List, and may constitute sufficient cause for Cancellation, applying the provisions of 52.212 4 , Contract Terms and Conditions (paragraph (m), Termination for Cause), and application of any other remedies as provided by law—including monetary recovery.

**SCOPE** **OF SOLICITATION (DEC 2020)**

The Federal Supply Schedule (FSS) program is also known as the GSA Schedules Program or the Multiple Award Schedule (MAS) Program. The FSS program is directed and managed by GSA and provides Federal agencies with a simplified process for obtaining commercial supplies and services at prices associated with volume buying. Indefinite-delivery, indefinite quantity contracts are awarded to provide supplies and services at stated prices for given periods of time. GSA has delegated authority to the VA to manage the Schedules for medical supplies under the VA FSS program.

This solicitation is issued to establish contracts which may be used on a nonmandatory basis by eligible users, as a source of supply for the supplies or services described herein, for domestic and/or overseas delivery. At a minimum, contract holders are required to deliver their products within the 48 contiguous states, Alaska, Hawaii, Puerto Rico, Washington, DC, and U.S. territories. Domestic delivery also includes a port or consolidation point, within the aforementioned areas, for orders received from overseas activities. Offerors who cannot provide the required geographic coverage will not be considered for award. This solicitation further requires that offered prices cover delivery to destinations (i.e. F.O.B. destination) located within the 48 contiguous states and the District of Columbia. Offerors can choose whether or not prices cover delivery f.o.b. destination to Alaska, Hawaii, and the Commonwealth of Puerto Rico. Additionally, the solicitation defines the number of calendar days after receipt of order (ARO) within which delivery must be made.

**Special Item Numbers (SINs):** FSS solicitations set forth broad categories of accepted products/services, referred to as Special Item Numbers (SINs), listed in the Continuation of SF1449 in Vendor Response Document 02. Offerors are not required to submit their entire catalog of products/services but are free to choose which items they will offer as long as those items fall within one of the solicitation’s pre-defined SIN categories. Items that do not fall within one of these SINs are considered to be out of scope of the solicitation and cannot be awarded. An item’s acceptability under the schedule may be further restricted by clause 52.225-5 Trade Agreements, limitations on certain types of commercial items, and a determination of fair and reasonable pricing.

Please be advised of the below restrictions applicable to this schedule for specific SINs/types of products.

* **Laboratory Equipment:** While laboratory equipment, materials and supplies are permitted under SINs C-21 through C-28, this solicitation does not provide coverage for laboratory services, such as custom teeth and crowns.
* **Hand Tools:** SINs C-29 through C-33 provide coverage for hand instruments and hand pieces and accessories. Please note that endodontic specific hand instruments/pieces fall under C-34 Endodontic Instruments and Supplies, and orthodontic specific hand instruments/pieces fall under C-35 Orthodontic Supplies and Related Items.
* **Lease:** Leased items may be proposed provided that the following conditions are met: 1) The offeror leases such items commercially in the normal course of business; 2) The proposed lease term does not exceed 60 months; and 3) The offeror must negotiate in good faith a lease agreement at the task order level with such agreement adhering to the parameters set forth in the “General Terms and Conditions Applicable to Leasing” section of Solicitation Document 01 (also included in this amendment). When proposing leased items, the offeror must clearly identify the item as a lease in the Name/Product Description column of the price proposal spreadsheet (Document 03) and must state the period for the lease (e.g. “one year”, “15 months”, etc.).
* **Rental:** Rental items may be proposed provided that the following conditions are met: 1) The offeror rents such items commercially in the normal course of business; 2) The proposed rental term does not exceed 12 months; and 3) The offeror must negotiate in good faith a rental agreement at the task order level with such agreement adhering to the parameters set forth in the “General Terms and Conditions Applicable to Rental” section of Solicitation Document 01. When proposing rental items, the offeror must clearly identify the item as a rental in the Name/Product Description column of the price proposal spreadsheet (Document 03) and must state the period for the rental (e.g. “daily rental”, “monthly rental”, etc.).

**New Items, Refurbished Items, and “Grey Market Goods”**

* **Item Purchases and Repairs under Warranty*:***  The Contractor shall provide only new equipment and new parts for the required products described herein. Absolutely no “grey market goods” or refurbished products or parts shall be provided under any delivery order or warranty repair. Grey market goods are defined as genuine branded goods sold outside of an authorized sales-territory (or by non-authorized dealers in an authorized territory) at prices lower than being charged in authorized sales territories (or by authorized dealers). All equipment must be covered by the manufacturer’s warranty.
* **Item Leasing/Rentals:** New, used, and refurbished items may be offered for lease or rental when customary in the commercial marketplace. Absolutely no “grey market goods” or parts shall be provided under any lease or rental.

**Trade Agreements Act**

The [Trade Agreements Act](https://www.acquisition.gov/far/html/Subpart%2025_4.html) is applicable to all Schedules. In exercising its authority under FAR Part 25, Foreign Acquisition, purchases by Ordering Activities are restricted to either U.S.-made or designated country end products. A U.S.-made product can be either 1) an article that is mined, produced, or manufactured in the United States, or 2) an article that is substantially transformed in the United States into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed.It is the offeror’s responsibility to verify that all offered products are U.S. made or designated country end products as defined in clause FAR 52.225-5. When an item consists of components from various countries and the components are assembled in a designated country, the test to determine country of origin is substantial transformation (see [FAR 25.001(c)(2)](https://www.acquisition.gov/far/html/Subpart%2025_1.html)). Offerors requiring a determination on substantial transformation can go to the US Customs and Border Protection (CBP) [Office of Regulations and Rulings](https://www.cbp.gov/trade/rulings). For the purposes of services, origin is determined by the country in which the firm providing the service is established, not the location at which the services are performed.

**Commercial Items - Limitations**

Per GSA regulations at 538.271(a), MAS awards are for commercial items as defined in FAR 2.101. Certain types of “custom” items fall under this definition as modified commercial items. For example, FSS accepts configurable items, such as configurable wheelchairs, and custom count items, such as pharmaceutical tablets packaged in quantities specifically for the Government. FSS, however, has made a business decision not to award contracts for the following:

* Custom Packs
* Non-Configurable Custom Products Made to Individual Specifications, including, but not limited to, such items as custom orthotics, custom dental products, and prescription eyeglasses.

Additionally, per the commercial item definition at FAR 2.101, FSS cannot award contracts to installation, maintenance, and repair service companies who do not also provide similar services to the general public (i.e. Government only service providers).

**FDA Regulatory Requirements**

Offerors of products classified as medical devices by the U.S. Food and Drug Administration shall be in compliance with the Federal Food Drug and Cosmetic (FD&C) Act, as amended, and regulations promulgated there under (codified in 21 CFR Parts 800-1299). Offerors of medical devices not in compliance with these regulations shall not be considered for award under this solicitation.

**Notice of Additional Requirements - Ordering Level**

In addition to the terms and conditions set forth in this solicitation, the contractor may, in the performance of orders issued under this contract, be responsible for further requirements at the ordering level. For more information on these potential, additional requirements, please see the note in Solicitation Document 01 after FAR clause 52.216-18 Ordering.

**Please note** that the VA does not promote the use of any company’s specific Schedule contract. Vendors should be aware that obtaining a VA Schedule contract is **not a guarantee of sales**. Vendors awarded a VA Schedule contract will need to [market](http://www.gsa.gov/portal/content/104176) their supplies and services to Government customers as they would to commercial customers. A listing of eligible schedule users can be found at on GSA’s website at <http://gsa.federalschedules.com/resources/eligible-gsa-schedule-users/>