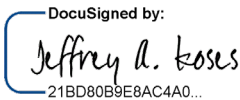




2/15/2025

MEMORANDUM FOR GSA CONTRACTING ACTIVITIES

FROM: JEFFREY A. KOSES 
21BD80B9E8AC4A0...
SENIOR PROCUREMENT EXECUTIVE
OFFICE OF ACQUISITION POLICY (MV)

SUBJECT: FAR Class Deviation for Revoked Executive Order 11246,
Equal Employment Opportunity

1. **Purpose.** This memorandum approves a class deviation to Federal Acquisition Regulation (FAR) subpart 22.8, Equal Employment Opportunity and associated provisions and clauses to stop the enforcement of FAR policies related to the now revoked Executive Order 11246, *Equal Employment Opportunity*. Executive Order Executive Order (E.O.) 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity, revoked E.O. 11246.
2. **Background.**
 - On January 21, 2025, President Trump issued [Executive Order \(E.O.\) 14173, Ending Illegal Discrimination and Restoring Merit-Based Opportunity](#) which revoked E.O. 11246, *Equal Employment Opportunity*.
 - On January 24, 2025, the Department of Labor issued [Order 03-2025](#) announcing that it would cease enforcement activity under the rescinded E.O. 11246. In addition, the Office of Federal Contract Compliance Programs (OFCCP) published a [Bulletin](#) announcing that for 90 days from the date of the E.O., Federal contractors *may* continue to comply with the regulatory scheme in effect on January 20, 2025, while also announcing it would cease:
 - Promoting “diversity”;
 - Holding Federal contractors and subcontractors responsible for taking “affirmative action”; and
 - Allowing or encouraging Federal contractors and subcontractors to engage in workforce balancing based on race, color, sex, sexual preference, religion, or national origin.

- I consulted with the chair of the Civilian Agencies Acquisition Council (CAAC) in accordance with FAR 1.404 in issuing this class deviation. .

3. Applicability. This class deviation applies to all GSA solicitations and contracts (including leases of real property), as appropriate, and provides guidance to the GSA acquisition workforce on how to implement the class deviation for:

- New or open solicitations
- New contracts or orders
- Existing contracts or orders

Actions required under the Class Deviation are not impacted by the GSA [Acquisition Pause Memo](#).

4. Instructions.

Follow the revised procedures noted throughout this deviation

To minimize confusion and reduce administrative cost, you are encouraged to consolidate actions required by this FAR Deviation with the actions required by FAR Class Deviation for Section 2 of the Executive Order 14148, "Initial Rescissions of Harmful Executive Orders and Actions," which revoked Executive Order 14057 and Section 2 of Executive Order 14208, "Ending Procurement and Forced Use of Paper Straws."

a. For New or Open Solicitations and Existing or New Contracts.

Contracting officers shall take the following actions:

- Amend solicitations (e.g., Request for Proposals (RFP), Request for Quotations (RFQ), Request for Bids (RFB), and Solicitation for Offers (SFO issued on or after the effective date of this class deviation: You may do so either prior to solicitation closing, or prior to award, whichever is more efficient.
- For solicitations which have closed and have offers in house, either amend the solicitation or incorporate the noted changes prior to contract award.
- For existing contracts (including leases) with remaining periods of performance of six months or more, modify the contracts at the next reasonable opportunity

- For existing contracts with six months or less remaining, no action is required.

- i. **Where applicable, include** the following deviated provisions and clauses:
 1. FAR 52.204-8, Annual Representations and Certifications (JAN 2025) (DEVIATION FEB 2025)
 2. FAR 52.212-3, Offeror Representations and Certifications—Commercial Products and Commercial Services (MAY 2024) (DEVIATION FEB 2025)
 3. FAR 52.212-5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (JAN 2025) (DEVIATION FEB 2025)
 4. FAR 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2025) (DEVIATION FEB 2025)
 5. FAR 52.222-9, Apprentices and Trainees (JUL 2005) (DEVIATION FEB 2025)
 6. FAR 52.244-6, Subcontracts for Commercial Products and Commercial Services (JAN 2025) (DEVIATION FEB 2025)

- ii. **Include** the following notice:

“System updates may lag policy updates. The System for Award Management (SAM) may continue to require entities to complete representations based on provisions that are not included in GSA solicitations. Examples include:

- FAR 52.222-25, *Affirmative Action Compliance*, and
- FAR 52.212-3(d), *Offeror Representations and Certifications—Commercial Products and Commercial Services*.

Contracting officers will neither consider the representations when making award decisions nor enforce requirements. Entities are not required to, nor are they able to, update their entity registration to remove these representations in SAM.”

- iii. **Do not include the clauses or provisions noted below:**
 1. FAR 52.222-21, Prohibition of Segregated Facilities
 2. FAR 52.222-22, Previous Contracts and Compliance Reports

3. FAR 52.222-23, Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction
4. FAR 52.222-24, Preaward On-Site Equal Opportunity Compliance Evaluation
5. FAR 52.222-25, Affirmative Action Compliance
6. FAR 52.222-26, Equal Opportunity
7. FAR 52.222-27, Affirmative Action Compliance Requirements for Construction
8. FAR 52.222-29, Notification of Visa Denial

iv. **Ensure** Contractors understand that the GSA deviation does not affect the following:

1. Any FAR subparts that are based on statute or are not covered by E.O. 11246 such as:
 - a. FAR subparts 22.13, Equal Opportunity for Veterans and its related clauses and provisions; and
 - b. FAR subpart 22.14, Employment of Workers and Disabilities.
2. Existing U.S. laws on civil rights, nondiscrimination, or any laws that generally apply to a company regardless of whether it is a government contractor.

b. **For Existing Contracts or Orders in the Final Period of Performance.** For contracts (including leases) or orders nearing the end of their period of performance (e.g., less than 6 months), and where all options to extend have been exhausted or an option to extend is not planned, contracting officers are not required to revise or remove the FAR clauses or provisions associated with the rescinded E.O. This decision reflects the determination that modifying contracts with limited time remaining is inefficient and the costs do not outweigh the benefits.

The contracting officer must provide the following notification to appropriate contractors and subcontractors:

“As of February 15, 2025, FAR clauses and provisions covered under E.O. 11246, Equal Employment Opportunity, will no longer be enforced. Therefore, contractors and their subcontractors will not be held accountable for applying the FAR clauses or provisions outlined in [FAR subpart 22.8 - Equal Employment Opportunity](#) or the associated provisions and clauses prescribed at [FAR 22.810](#). In addition, contractors will no longer be required to comply with the System for

Award Management (SAM) representation requirements based on these provisions and clauses. Examples include:

- FAR 52.222-25, *Affirmative Action Compliance*, and
- FAR 52.212-3(d), *Offeror Representations and Certifications—Commercial Products and Commercial Services*.

This notification does not affect:

- Any FAR subparts that are based on statute or are not covered by E.O. 11246 such as:
 - FAR subparts 22.13, Equal Opportunity for Veterans and its related clauses and provisions; and
 - FAR subpart 22.14, Employment of Workers and Disabilities;
- Existing U.S. laws on civil rights, nondiscrimination, or any laws that generally apply to a company regardless of whether it is a government contractor.”

5. Authority. This class deviation is issued under the authority of FAR 1.404 and General Services Administration Acquisition Manual (GSAM) 501.404. It is following my consultation with the Chair of the CAAC, in accordance with FAR 1.404.

6. Deviation. See Attachment A for the changes in the FAR text as revised by this class deviation. See Attachment B for a “clean” version of the deviated FAR text.

7. Effective Date. This class deviation is effective immediately and remains in effect until rescinded or incorporated into the FAR or GSAR.

8. Point of Contact. Any questions regarding this class deviation may be directed to GSARPolicy@gsa.gov.

For information about implementation of this class deviation, contact the following Service-level acquisition policy offices:

- FAS Office of Policy and Compliance at documentreview-fasqv@gsa.gov;
- PBS National Office of Leasing at Leasing@gsa.gov;
- PBS Office of Acquisition Management at PBSOAMpolicy@gsa.gov.

Attachments [Attachment A – FAR Deviated Text, Line-In/Line-Out](#)
[Attachment B – FAR Deviated Text, Clean Version](#)

Class Deviation CD-2025-04
Revised Due to guidance from CAAC Meeting Minutes on 02/26/2025
Attachment A

FAR Deviated Text Line-In/Line-Out

FAR Baseline: FAC 2025-03 effective 1/17/2025

- Additions to baseline made by class deviation are indicated by **[bold text in brackets]**
- Deletions to baseline made by class deviation are indicated by ~~strikethroughs~~
- Five asterisks (* * * * *) indicate that there are no revisions between the preceding part and/or subpart, and following section
- Three asterisks (* * *) indicate that there are no revisions between the material shown within a section or subsection

* * * * *

PART 1 — FEDERAL ACQUISITION REGULATIONS SYSTEM

* * * * *

1.106 OMB approval under the Paperwork Reduction Act.

* * * * *

FAR segment	OMB control No.
* * * * *	* * * * *
22.8	1250-0003
* * * * *	* * * * *
52.222-21	1250-0003
52.222-22	1250-0003
52.222-23	1250-0003
52.222-25	1250-0003
52.222-26	1250-0001 and 1250-0003
52.222-27	1250-0003

* * * * *

PART 2 — DEFINITIONS OF WORDS AND TERMS

* * * * *

Subpart 2.1 — Definitions

2.101 Definitions.

* * * * *

United States, when used in a geographic sense, means the 50 States and the District of Columbia, except as follows:

* * * * *

(2) **[Reserved]** ~~For use in subpart 22.8, see the definition at 22.801.~~

* * * * *

PART 4 — ADMINISTRATIVE AND INFORMATION MATTERS

* * * * *

Subpart 4.12 — Representations and Certifications

* * * * *

4.1202 Solicitation provision and contract clause.

(a) * * *

* * * * *

(18) **[Reserved]** ~~52.222-22, Previous Contracts and Compliance Reports.~~

(19) **[Reserved]** ~~52.222-25, Affirmative Action Compliance.~~

* * * * *

PART 14 — SEALED BIDDING

* * * * *

Subpart 14.4 — Opening of Bids and Award of Contract

* * * * *

14.405 Minor informalities or irregularities in bids.

* * * * *

(d) Acknowledge receipt of an amendment to an invitation for bids, but only if-

(1) * * *

(2) The amendment involves only a matter of form or has either no effect or merely a negligible effect on price, quantity, quality, or delivery of the item bid upon[.]; and

~~(e) Execute the representations with respect to Equal Opportunity and Affirmative Action Programs, as set forth in the clauses at 52.222-22, Previous Contracts and Compliance Reports, and 52.222-25, Affirmative Action Compliance.~~

* * * * *

PART 19 — SMALL BUSINESS PROGRAMS

* * * * *

Subpart 19.6 — Certificates of Competency and Determinations of Responsibility

* * * * *

19.602 Procedures.

19.602-1 Referral.

(a) * * *

* * * * *

(2) Refer the matter to the cognizant SBA Government Contracting Area Office (Area Office) serving the area in which the headquarters of the offeror is located, in accordance with agency procedures, except that referral is not necessary if the small business concern —

* * * * *

(ii) Is suspended or debarred under ~~Executive Order 11246~~ or subpart 9.4.

* * * * *

PART 22 — APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

* * * * *

Subpart 22.8 ~~Equal Employment Opportunity~~ **[Reserved]**

~~22.800 Scope of subpart.~~

~~This subpart prescribes policies and procedures pertaining to nondiscrimination in employment by contractors and subcontractors.~~

~~22.801 Definitions.~~

~~As used in this subpart-~~

~~*Affirmative action program* means a contractor's program that complies with Department of Labor regulations to ensure equal opportunity in employment to minorities and women.~~

~~*Compliance evaluation* means any one or combination of actions that the Office of Federal Contract Compliance Programs (OFCCP) may take to examine a Federal contractor's compliance with one or more of the requirements of E.O.11246.~~

~~*Contractor* includes the terms "prime contractor" and "subcontractor."~~

~~*Deputy Assistant Secretary* means the Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.~~

~~*Equal Opportunity clause* means the clause at [52.222-26](#), Equal Opportunity, as prescribed in [22.810\(e\)](#).~~

~~*E.O.11246* means Parts II and IV of Executive Order 11246, September 24, 1965 (30 FR 12319), and any Executive order amending or superseding this order (see [22.802](#)). This term specifically includes the Equal Opportunity clause at [52.222-26](#), and the rules, regulations, and orders issued pursuant to E.O.11246 by the Secretary of Labor or a designee.~~

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

~~*Prime contractor* means any person who holds, or has held, a Government contract subject to E.O.11246.~~

~~*Recruiting and training agency* means any person who refers workers to any contractor or provides or supervises apprenticeship or training for employment by any contractor.~~

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

~~*Site of construction* means the general physical location of any building, highway, or other change or improvement to real property that is undergoing construction, rehabilitation, alteration, conversion, extension, demolition, or repair; and any temporary location or facility at which a contractor or other participating party meets a demand or performs a function relating to a Government contract or subcontract.~~

~~*Subcontract* means any agreement or arrangement between a contractor and any person (in which the parties do not stand in the relationship of an employer and an~~

~~employee)-~~

- ~~(1) For the purchase, sale, or use of personal property or nonpersonal services that, in whole or in part, are necessary to the performance of any one or more contracts; or~~
- ~~(2) Under which any portion of the contractor's obligation under any one or more contracts is performed, undertaken, or assumed.~~

~~*Subcontractor* means any person who holds, or has held, a subcontract subject to E.O.11246. The term "first-tier subcontractor" means a subcontractor holding a subcontract with a prime contractor.~~

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

~~22.802 General.~~

~~(a) Executive Order 11246, as amended, sets forth the Equal Opportunity clause and requires that all agencies-~~

- ~~(1) Include this clause in all nonexempt contracts and subcontracts (see [22.807](#)); and~~
- ~~(2) Act to ensure compliance with the clause and the regulations of the Secretary of Labor-~~

~~(i) To promote the full realization of equal employment opportunity for all persons, regardless of race, color, religion, sex, sexual orientation, gender identity, or national origin; and~~

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

~~(b) No contract or modification involving new acquisition shall be entered into, and no subcontract shall be approved by a contracting officer, with a person who has been found ineligible by the Deputy Assistant Secretary for reasons of noncompliance with the requirements of E.O.11246.~~

~~(c) No contracting officer or contractor shall contract for supplies or services in a~~

manner so as to avoid applicability of the requirements of E.O.11246.

~~(d) Contractor disputes related to compliance with its obligation shall be handled according to the rules, regulations, and relevant orders of the Secretary of Labor (see 41 CFR60-1.1).~~

~~22.803 Responsibilities.~~

~~(a) The Secretary of Labor is responsible for the-~~

~~(1) Administration and enforcement of prescribed parts of E.O.11246; and~~

~~(2) Adoption of rules and regulations and the issuance of orders necessary to achieve the purposes of E.O.11246.~~

~~(b) The Secretary of Labor has delegated authority and assigned responsibility to the Deputy Assistant Secretary for carrying out the responsibilities assigned to the Secretary by E.O.11246, except for the issuance of rules and regulations of a general nature.~~

~~(c) The head of each agency is responsible for ensuring that the requirements of this subpart are carried out within the agency, and for cooperating with and assisting the OFCCP in fulfilling its responsibilities.~~

~~(d) In the event the applicability of E.O.11246 and implementing regulations is questioned, the contracting officer shall forward the matter to the Deputy Assistant Secretary, through agency channels, for resolution.~~

~~22.804 Affirmative action programs.~~

~~22.804-1 Nonconstruction.~~

~~Except as provided in [22.807](#), each nonconstruction prime contractor and each subcontractor with 50 or more employees and either a contract or subcontract of \$50,000 or more, or Government bills of lading that in any 12-month period total, or can reasonably be expected to total, \$50,000 or more, is required to develop a written affirmative action program for each of its establishments. Each contractor and subcontractor shall develop its written affirmative action programs within 120 days from the commencement of its first such Government contract, subcontract, or Government bill of lading.~~

~~22.804-2 Construction.~~

~~(a) Construction contractors that hold a nonexempt (see [22.807](#)) Government construction contract are required to meet-~~

~~(1) The contract terms and conditions citing affirmative action requirements applicable~~

to covered geographical areas or projects; and
(2) Applicable requirements of 41 CFR 60-1 and 60-4.

(b) Each agency shall maintain a listing of covered geographical areas that are subject to affirmative action requirements that specify goals for minorities and women in covered construction trades. Information concerning, and additions to, this listing will be provided to the principally affected contracting officers in accordance with agency procedures. Any contracting officer contemplating a construction project in excess of \$10,000 within a geographic area not known to be covered by specific affirmative action goals shall request instructions on the most current information from the OFCCP regional office, or as otherwise specified in agency regulations, before issuing the solicitation.

(c) Contracting officers shall give written notice to the OFCCP regional office within 10 working days of award of a construction contract subject to these affirmative action requirements. The notification shall include the name, address, and telephone number of the contractor; employer identification number; dollar amount of the contract; estimated starting and completion dates of the contract; the contract number; and the geographical area in which the contract is to be performed. When requested by the OFCCP regional office, the contracting officer shall arrange a conference among contractor, contracting activity, and compliance personnel to discuss the contractor's compliance responsibilities.

22.805 Procedures.

(a) Preaward clearances for contracts and subcontracts of \$10 million or more (excluding construction). (1) Except as provided in paragraphs (a)(4) and (a)(8) of this section, if the estimated amount of the contract or subcontract is \$10 million or more, the contracting officer shall request clearance from the appropriate OFCCP regional office before-

(i) Award of any contract, including any indefinite delivery contract or letter contract; or

(ii) Modification of an existing contract for new effort that would constitute a contract award.

(2) Preaward clearance for each proposed contract and for each proposed first-tier subcontract of \$10 million or more shall be requested by the contracting officer directly from the OFCCP regional office(s). Verbal requests shall be confirmed by letter or facsimile transmission.

(3) When the contract work is to be performed outside the United States with employees recruited within the United States, the contracting officer shall send the request for a

~~preaward clearance to the OFCCP regional office serving the area where the proposed contractor's corporate home or branch office is located in the United States, or the corporate location where personnel recruiting is handled, if different from the contractor's corporate home or branch office. If the proposed contractor has no corporate office or location within the United States, the preaward clearance request action should be based on the location of the recruiting and training agency in the United States.~~

~~(4) The contracting officer does not need to request a preaward clearance if-~~

~~(i) The specific proposed contractor is listed in OFCCP's National Preaward Registry via the Internet at <https://www.dol.gov/agencies/ofccp/pre-award/registry>;~~

~~(ii) The projected award date is within 24 months of the proposed contractor's Notice of Compliance completion date in the Registry; and~~

~~(iii) The contracting officer documents the Registry review in the contract file.~~

~~(5) The contracting officer shall include the following information in the preaward clearance request:~~

~~(i) Name, address, and telephone number of the prospective contractor and of any corporate affiliate at which work is to be performed.~~

~~(ii) Name, address, and telephone number of each proposed first-tier subcontractor with a proposed subcontract estimated at \$10 million or more.~~

~~(iii) Anticipated date of award.~~

~~(iv) Information as to whether the contractor and first-tier subcontractors have previously held any Government contracts or subcontracts.~~

~~(v) Place or places of performance of the prime contract and first-tier subcontracts estimated at \$10 million or more, if known.~~

~~(vi) The estimated dollar amount of the contract and each first-tier subcontract, if known.~~

~~(6) The contracting officer shall allow as much time as feasible before award for the conduct of necessary compliance evaluation by OFCCP. As soon as the apparently successful offeror can be determined, the contracting officer shall process a preaward clearance request in accordance with agency procedures, assuring, if possible, that the preaward clearance request is submitted to the OFCCP regional office at least 30 days before the proposed award date.~~

~~(7) Within 15 days of the clearance request, OFCCP will inform the awarding agency of its intention to conduct a preaward compliance evaluation. If OFCCP does not inform the awarding agency within that period of its intention to conduct a preaward compliance evaluation, clearance shall be presumed and the awarding agency is authorized to proceed with the award. If OFCCP informs the awarding agency of its intention to conduct a preaward compliance evaluation, OFCCP shall be allowed an additional 20 days after the date that it so informs the awarding agency to provide its conclusions. If OFCCP does not provide the awarding agency with its conclusions within that period, clearance shall be presumed and the awarding agency is authorized to proceed with the award.~~

~~(8) If the procedures specified in paragraphs (a)(6) and (a)(7) of this section would delay award of an urgent and critical contract beyond the time necessary to make award or beyond the time specified in the offer or extension thereof, the contracting officer shall immediately inform the OFCCP regional office of the expiration date of the offer or the required date of award and request clearance be provided before that date. If the OFCCP regional office advises that a preaward evaluation cannot be completed by the required date, the contracting officer shall submit written justification for the award to the head of the contracting activity, who, after informing the OFCCP regional office, may then approve the award without the preaward clearance. If an award is made under this authority, the contracting officer shall immediately request a postaward evaluation from the OFCCP regional office.~~

~~(9) If, under the provisions of paragraph (a)(8) of this section, a postaward evaluation determines the contractor to be in noncompliance with E.O. 11246, the Deputy Assistant Secretary may authorize the use of the enforcement procedures at [22.809](#) against the noncomplying contractor.~~

~~(b) *Furnishing posters.* The contracting officer shall furnish to the contractor appropriate quantities of the poster entitled "Equal Employment Opportunity Is The Law." These shall be obtained in accordance with agency procedures.~~

22.806 Inquiries.

~~(a) An inquiry from a contractor regarding status of its compliance with E.O. 11246, or rights of appeal to any of the actions in [22.809](#), shall be referred to the OFCCP regional office.~~

~~(b) Labor union inquiries regarding the revision of a collective bargaining agreement in order to comply with E.O. 11246 shall be referred to the Deputy Assistant Secretary.~~

22.807 Exemptions.

~~(a) Under the following exemptions, all or part of the requirements of E.O.11246 may be excluded from a contract subject to E.O.11246:~~

~~(1) *National security.* The agency head may determine that a contract is essential to the national security and that the award of the contract without complying with one or more of the requirements of this subpart is necessary to the national security. Upon making such a determination, the agency shall notify the Deputy Assistant Secretary in writing within 30 days.~~

~~(2) *Specific contracts.* The Deputy Assistant Secretary may exempt an agency from requiring the inclusion of one or more of the requirements of E.O.11246 in any contract if the Deputy Assistant Secretary deems that special circumstances in the national interest so require. Groups or categories of contracts of the same type may also be exempted if the Deputy Assistant Secretary finds it impracticable to act upon each request individually or if group exemptions will contribute to convenience in the administration of E.O.11246.~~

~~(b) The following exemptions apply even though a contract or subcontract contains the Equal Opportunity clause:~~

~~(1) *Transactions of \$10,000 or less.* The Equal Opportunity clause is required to be included in prime contracts and subcontracts by [22.802\(a\)](#). Individual prime contracts or subcontracts of \$10,000 or less are exempt from application of the Equal Opportunity clause, unless the aggregate value of all prime contracts or subcontracts awarded to a contractor in any 12-month period exceeds, or can reasonably be expected to exceed, \$10,000. (Note: Government bills of lading, regardless of amount, are not exempt.)~~

~~(2) *Work outside the United States.* Contracts are exempt from the requirements of E.O.11246 for work performed outside the United States by employees who were not recruited within the United States.~~

~~(3) *Contracts with State or local governments.* The requirements of E.O.11246 in any contract with a State or local government (or any agency, instrumentality, or subdivision thereof) shall not be applicable to any agency, instrumentality, or subdivision of such government that does not participate in work on or under the contract.~~

~~(4) *Work on or near Indian reservations.* It shall not be a violation of E.O.11246 for a contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. This applies to that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors extending such a preference shall not, however, discriminate among~~

~~Indians on the basis of religion, sex, sexual orientation, gender identity, or tribal affiliation, and the use of such preference shall not excuse a contractor from complying with E.O.11246, rules and regulations of the Secretary of Labor, and applicable clauses in the contract.~~

~~(5) *Facilities not connected with contracts.* The Deputy Assistant Secretary may exempt from the requirements of E.O.11246 any of a contractor's facilities that the Deputy Assistant Secretary finds to be in all respects separate and distinct from activities of the contractor related to performing the contract, provided, that the Deputy Assistant Secretary also finds that the exemption will not interfere with, or impede the effectiveness of, E.O.11246.~~

~~(6) *Indefinite-quantity contracts.* With respect to indefinite-quantity contracts and subcontracts, the Equal Opportunity clause applies unless the contracting officer has reason to believe that the amount to be ordered in any year under the contract will not exceed \$10,000. The applicability of the Equal Opportunity clause shall be determined by the contracting officer at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the Equal Opportunity clause shall be applied to the contract whenever the amount of a single order exceeds \$10,000. Once the Equal Opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration regardless of the amounts ordered, or reasonably expected to be ordered, in any year.~~

~~(7) *Contracts with religious entities.* Pursuant to E.O. 13279, Section 202 of E.O. 11246, shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in the order.~~

~~(c) To request an exemption under paragraph (a)(2) or (b)(5) of this section, the contracting officer shall submit, under agency procedures, a detailed justification for omitting all, or part of, the requirements of E.O.11246. Requests for exemptions under paragraph (a)(2) or (b)(5) of this section shall be submitted to the Deputy Assistant Secretary for approval.~~

~~(d) The Deputy Assistant Secretary may withdraw the exemption for a specific contract, or group of contracts, if the Deputy Assistant Secretary deems that such action is necessary and appropriate to achieve the purposes of E.O.11246. Such withdrawal shall not apply-~~

~~(1) To contracts awarded before the withdrawal; or~~

~~(2) To any sealed bid contract (including restricted sealed bidding), unless the withdrawal is made more than 10 days before the bid opening date.~~

~~22.808 Complaints.~~

~~Complaints received by the contracting officer alleging violation of the requirements of E.O. 11246 shall be referred immediately to the OFCCP regional office. The complainant shall be advised in writing of the referral. The contractor that is the subject of a complaint shall not be advised in any manner or for any reason of the complainant's name, the nature of the complaint, or the fact that the complaint was received.~~

~~22.809 Enforcement.~~

~~Upon written notification to the contracting officer, the Deputy Assistant Secretary may direct one or more of the following actions, as well as administrative sanctions and penalties, be taken against contractors found to be in violation of E.O. 11246, the regulations of the Secretary of Labor, or the applicable contract clauses:~~

~~(a) Publication of the names of the contractor or its unions.~~

~~(b) Cancellation, termination, or suspension of the contractor's contracts or portion thereof.~~

~~(c) Debarment from future Government contracts, or extensions or modifications of existing contracts, until the contractor has established and carried out personnel and employment policies in compliance with E.O. 11246 and the regulations of the Secretary of Labor.~~

~~(d) Referral by the Deputy Assistant Secretary of any matter arising under E.O. 11246 to the Department of Justice or to the Equal Employment Opportunity Commission (EEOC) for the institution of appropriate civil or criminal proceedings.~~

~~22.810 Solicitation provisions and contract clauses.~~

~~(a) When a contract is contemplated that will include the clause at [52.222-26](#), Equal Opportunity, the contracting officer shall insert-~~

~~(1) The clause at [52.222-21](#), Prohibition of Segregated Facilities, in the solicitation and contract; and~~

~~(2) The provision at [52.222-22](#), Previous Contracts and Compliance Reports, in the solicitation.~~

~~(b) The contracting officer shall insert the provision at [52.222-23](#), Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction, in solicitations for construction when a contract is contemplated that will include the clause at [52.222-26](#), Equal Opportunity, and the amount of the contract is expected to be in excess of \$10,000.~~

~~(c) The contracting officer shall insert the provision at [52.222-24](#), Preaward On-Site Equal Opportunity Compliance Evaluation, in solicitations other than those for construction when a contract is contemplated that will include the clause at [52.222-26](#), Equal Opportunity, and the amount of the contract is expected to be \$10 million or more.~~

~~(d) The contracting officer shall insert the provision at [52.222-25](#), Affirmative Action Compliance, in solicitations, other than those for construction, when a contract is contemplated that will include the clause at [52.222-26](#), Equal Opportunity.~~

~~(e) The contracting officer shall insert the clause at [52.222-26](#), Equal Opportunity, in solicitations and contracts (see [22.802](#)) unless the contract is exempt from all of the requirements of E.O. 11246 (see [22.807\(a\)](#)). If the contract is exempt from one or more, but not all, of the requirements of E.O. 11246, the contracting officer shall use the clause with its Alternate I.~~

~~(f) The contracting officer shall insert the clause at [52.222-27](#), Affirmative Action Compliance Requirements for Construction, in solicitations and contracts for construction that will include the clause at [52.222-26](#), Equal Opportunity, when the amount of the contract is expected to be in excess of \$10,000.~~

~~(g) The contracting officer shall insert the clause at [52.222-29](#), Notification of Visa Denial, in contracts that will include the clause at [52.222-26](#), Equal Opportunity, if the contractor is required to perform in or on behalf of a foreign country.~~

PART 52 — SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

52.204-8 Annual Representations and Certifications.

As prescribed in 4.1202(a), insert the following provision:

Annual Representations and Certifications (JAN 2025)(DEVIATION FEB 2025)

* * * * *

(c)(1) * * *

* * * * *

(xiv) ~~[Reserved]52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.~~

(xv) ~~[Reserved]52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.~~

* * * * *

52.212-3 Offeror Representations and Certifications — Commercial Products and Commercial Services.

As prescribed in 12.301(b)(2), insert the following provision:

Offeror Representations and Certifications — Commercial Products and Commercial Services (MAY 2024)(DEVIATION FEB 2025)

* * * * *

(d) ~~[Reserved]Representations required to implement provisions of Executive Order 11246—~~

~~(1) Previous contracts and compliance. The offeror represents that—~~

~~(i) It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation; and~~

~~(ii) It has, has not filed all required compliance reports.~~

~~(2) Affirmative Action Compliance. The offeror represents that—~~

~~(i) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by rules and regulations of the Secretary of Labor (41 CFR parts 60-1 and 60-2), or~~

~~(ii) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.~~

* * * * *

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

As prescribed in 12.301(b)(4), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders —

Commercial Products and Commercial Services (JAN 2025)(DEVIATION FEB 2025)

* * * * *

(b) * * *

* * * * *

~~__ (33) [Reserved] 52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

~~__ (34) [Reserved] (i) 52.222-26, Equal Opportunity (SEPT 2016) (E.O. 11246).~~

~~__ (ii) Alternate I (FEB 1999) of 52.222-26.~~

* * * * *

(e)(1) * * *

* * * * *

~~(ix) [Reserved] 52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

~~(x) [Reserved] 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

* * * * *

Alternate II (JAN 2025)(DEVIATION FEB 2025). * * *

* * * * *

(e)(1) * * *

(ii) * * *

* * * * *

~~(I) [Reserved] 52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

~~(J) [Reserved] 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

* * * * *

52.213-4 Terms and Conditions — Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

As prescribed in 13.302-5(d), insert the following clause:

Terms and Conditions — Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2025)(DEVIATION FEB 2025)

* * * * *

(a) * * *

(1) * * *

* * * * *

(vii) ~~[Reserved] 52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

(viii) ~~[Reserved] 52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

* * * * *

52.222-9 Apprentices and Trainees.

As prescribed in 22.407(a), insert the following clause:

Apprentices and Trainees (JUL 2005)(DEVIATION FEB 2025)

* * * * *

~~(c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, and 29 CFR part 30.~~

* * * * *

52.222-21 ~~[Reserved] Prohibition of segregated facilities.~~

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

~~PROHIBITION OF SEGREGATED FACILITIES (APR 2015)~~

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

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

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

~~necessary dressing or sleeping areas provided to assure privacy between the sexes.~~

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

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

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

~~(End of clause)~~

~~52.222-22 [Reserved] Previous Contracts and Compliance Reports.~~

~~As prescribed in [22.810](#)(a)(2), insert the following provision:~~

~~PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)~~

~~The offeror represents that-~~

~~It has, has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;~~

~~It has, has not filed all required compliance reports; and~~

~~Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.~~

~~(End of provision)~~

~~52.222-23 [Reserved] Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity for Construction.~~

~~As prescribed in [22.810](#)(b), insert the following provision:~~

~~NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT~~

OPPORTUNITY FOR CONSTRUCTION (FEB 1999)

~~(a) The offeror's attention is called to the Equal Opportunity clause and the Affirmative Action Compliance Requirements for Construction clause of this solicitation.~~

~~(b) The goals for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:~~

~~Goals for Minority Participation for
Each Trade~~

~~Goals for Female Participation for
Each Trade~~

~~=====~~

~~=====~~

~~[Contracting Officer shall insert goals]~~

~~[Contracting Officer shall insert goals]~~

~~These goals are applicable to all the Contractor's construction work performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, the Contractor shall apply the goals established for the geographical area where the work is actually performed. Goals are published periodically in the *Federal Register* in notice form, and these notices may be obtained from any Office of Federal Contract Compliance Programs office.~~

~~(c) The Contractor's compliance with Executive Order 11246, as amended, and the regulations in 41 CFR 60-4 shall be based on (1) its implementation of the Equal Opportunity clause, (2) specific affirmative action obligations required by the clause entitled "Affirmative Action Compliance Requirements for Construction," and (3) its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade. The Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor, or from project to project, for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, Executive Order 11246, as amended, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.~~

~~(d) The Contractor shall provide written notification to the Deputy Assistant Secretary for~~

~~Federal Contract Compliance, U.S. Department of Labor, within 10 working days following award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the-~~

- ~~(1) Name, address, and telephone number of the subcontractor;~~
- ~~(2) Employer's identification number of the subcontractor;~~
- ~~(3) Estimated dollar amount of the subcontract;~~
- ~~(4) Estimated starting and completion dates of the subcontract; and~~
- ~~(5) Geographical area in which the subcontract is to be performed.~~

~~(e) As used in this Notice, and in any contract resulting from this solicitation, the "covered area" is _____ [Contracting Officer shall insert description of the geographical areas where the contract is to be performed, giving the state, county, and city].~~

~~(End of provision)~~

52.222-24 **[Reserved]**

As prescribed in [22.810\(c\)](#), insert the following provision:

~~PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION (FEB 1999)~~

~~If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.~~

~~(End of provision)~~

52.222-25 **[Reserved]** ~~Preaward On-Site Equal Opportunity Compliance Evaluation.~~

As prescribed in [22.810\(d\)](#), insert the following provision:

AFFIRMATIVE ACTION COMPLIANCE (APR 1984)

The offeror represents that-

~~(a) It has developed and has on file, has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or~~

~~(b) It has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.~~

(End of provision)

52.222-26 **[Reserved]** Equal Opportunity.

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

EQUAL OPPORTUNITY (SEPT 2016)

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

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

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

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

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

~~(2) The function or duties of the position include protecting and maintaining the privacy~~

~~of employee personnel records, including compensation information.~~

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

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

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

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

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

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

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

~~(i) Employment;~~

~~(ii) Upgrading;~~

~~(iii) Demotion;~~

~~(iv) Transfer;~~

~~(v) Recruitment or recruitment advertising;~~

~~(vi) Layoff or termination;~~

~~(vii) Rates of pay or other forms of compensation; and~~

~~(viii) Selection for training, including apprenticeship.~~

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

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

~~(5)(i) The Contractor shall not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This prohibition against discrimination does not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.~~

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

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

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

~~(6) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers'~~

~~representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.~~

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

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

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

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

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

~~(12) The Contractor shall take such action with respect to any subcontract or purchase order as the Director of OFCCP may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a~~

~~result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.~~

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

(End of clause)

~~Alternate 1 (FEB 1999). As prescribed in [22.810](#) (e), add the following as a preamble to the clause:~~

~~Notice: The following terms of this clause are waived for this contract: _____
[Contracting Officer shall list terms].~~

~~52.222-27 [Reserved] Affirmative Action Compliance Requirements for Construction.~~

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

~~AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (APR 2015)~~

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

~~Covered area means the geographical area described in the solicitation for this contract.~~

~~Deputy Assistant Secretary, means the Deputy Assistant Secretary for the Office of Federal Contract Compliance Programs, U.S. Department of Labor, or a designee.~~

~~Employer identification number, means the Federal Social Security number used on the employer's quarterly Federal tax return, U.S. Treasury Department Form 941.~~

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

~~Minority, as used in this clause, means-~~

~~(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).~~

~~(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);~~

~~(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and~~

~~(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).~~

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

~~(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.~~

~~(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good faith efforts to achieve the plan's goals.~~

~~(d) The Contractor shall implement the affirmative action procedures in paragraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.~~

~~(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.~~

~~(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.~~

~~(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:~~

~~(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.~~

~~(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.~~

~~(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off the street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.~~

~~(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.~~

~~(5) Develop on the job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment~~

~~needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under paragraph (g)(2) of this clause.~~

~~(6) Disseminate the Contractor's equal employment policy by-~~

~~(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;~~

~~(ii) Including the policy in any policy manual and in collective bargaining agreements;~~

~~(iii) Publicizing the policy in the company newspaper, annual report, etc.;~~

~~(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and~~

~~(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.~~

~~(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.~~

~~(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.~~

~~(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.~~

~~(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's~~

workforce.

~~(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.~~

~~(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.~~

~~(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the Contractor's obligations under this contract are being carried out.~~

~~(14) Ensure that all facilities and company activities are nonsegregated except that separate or single user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.~~

~~(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.~~

~~(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.~~

~~(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in paragraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor union, contractor community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under paragraphs (g)(1) through (16) of this clause, provided, the Contractor-~~

~~(1) Actively participates in the group;~~

~~(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;~~

~~(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;~~

~~(4) Makes a good faith effort to meet its individual goals and timetables; and~~

~~(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.~~

~~(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.~~

~~(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.~~

~~(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.~~

~~(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.~~

~~(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.~~

~~(n) The Contractor shall designate a responsible official to-~~

~~(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;~~

~~(2) Submit reports as may be required by the Government; and~~

~~(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee,~~

helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; *however*, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

(e) Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

52.222-29 **[Reserved]** Notification of Visa Denial.

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

NOTIFICATION OF VISA DENIAL (APR 2015)

(a) Definitions. As used in this clause-

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

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

(b) Requirement to notify. (1) It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island, on the basis that the individual's race, color, religion, sex, sexual orientation, gender identity, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60-1.10).

(2) The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW, Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, sexual orientation,

~~gender identity, or national origin of the employee or potential employee.~~

(End of clause)

52.244-6 Subcontracts for Commercial Products and Commercial Services.

As prescribed in 44.403, insert the following clause:

Subcontracts for Commercial Products and Commercial Services (JAN
2025)(DEVIATION FEB 2025)

* * * * *

(c)(1) * * *

* * * * *

(xi) **[Reserved]** ~~52.222-21, Prohibition of Segregated Facilities (APR 2015).~~

(xii) **[Reserved]** ~~52.222-26, Equal Opportunity (SEP 2016) (E.O. 11246).~~

* * * * *

Class Deviation CD-2025-04
Revised Due to guidance from CAAC Meeting Minutes on 02/26/2025
Attachment B

FAR Deviated Text Clean Version

FAR Baseline: FAC 2025-03 effective 1/17/2025

- Additions to baseline made by class deviation are indicated by **[bold text in brackets]**
 - Deletions to baseline made by class deviation are indicated by ~~strikethroughs~~
 - Five asterisks (* * * * *) indicate that there are no revisions between the preceding part and/or subpart, and following section
 - Three asterisks (* * *) indicate that there are no revisions between the material shown within a section or subsection
-

PART 2 — DEFINITIONS OF WORDS AND TERMS

* * * * *

Subpart 2.1 — Definitions

2.101 Definitions.

* * *

United States, when used in a geographic sense, means the 50 States and the District of Columbia, except as follows:

- (1) For use in subpart [3.10](#), see the definition at [3.1001](#).
- (2) [Reserved].
- (3) For use in subpart [22.10](#), see the definition at [22.1001](#).
- (4) For use in subpart [22.13](#), see the definition at [22.1301](#).
- (5) For use in subpart [22.16](#), see the definition at [22.1601](#).
- (6) For use in subpart [22.17](#), see the definition at [22.1702](#).
- (7) For use in subpart [22.18](#), see the definition at [22.1801](#).
- (8) For use in subpart [22.19](#), see the definition at [22.1901](#).
- (9) For use in subpart [23.1](#), see the definition at [23.101](#).
- (10) For use in [part 25](#), see the definition at [25.003](#).
- (11) For use in [part 27](#), see the definition at [27.001](#).
- (12) For use in subpart [47.4](#), see the definition at [47.401](#).

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PART 4 — ADMINISTRATIVE AND INFORMATION MATTERS

* * * * *

Subpart 4.12 — Representations and Certifications

* * * * *

4.1202 Solicitation provision and contract clause.

(a) Insert the provision at [52.204-8](#), Annual Representations and Certifications, in solicitations, except for solicitations for commercial products or commercial services issued under part [12](#). The contracting officer shall check the applicable provisions at [52.204-8\(c\)\(2\)](#). Use the provision with its Alternate I in solicitations issued after October 1, 2028, that will result in a multiple-award contract with more than one North American Industry Classification System code assigned (see [19.102\(b\)](#)). When the provision at [52.204-7](#), System for Award Management, is included in the solicitation, do not separately include the following representations and certifications:

- (1) [52.203-2](#), Certificate of Independent Price Determination.
- (2) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.
- (3) [52.203-18](#), Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation.
- (4) [52.204-3](#), Taxpayer Identification.
- (5) [52.204-5](#), Women-Owned Business (Other Than Small Business).
- (6) [52.204-17](#), Ownership or Control of Offeror.
- (7) [52.204-20](#), Predecessor of Offeror.
- (8) [52.204-26](#), Covered Telecommunications Equipment or Services-Representation.
- (9) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations-Representation.
- (10) [52.209-5](#), Certification Regarding Responsibility Matters.
- (11) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.
- (12) [52.214-14](#), Place of Performance-Sealed Bidding.
- (13) [52.215-6](#), Place of Performance.
- (14) [52.219-1](#), Small Business Program Representations (Basic, Alternates I, and II).
- (15) [52.219-2](#), Equal Low Bids.
- (16) [Reserved]
- (17) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End

Products.

(18) [Reserved].

(19) [Reserved].

(20) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements.

(21) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Certification.

(22) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

(23) [52.223-1](#), Biobased Product Certification.

(24) [52.223-4](#), Recovered Material Certification.

(25) [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.

(26) [52.225-2](#), Buy American Certificate.

(27) [52.225-4](#), Buy American-Free Trade Agreements-Israeli Trade Act Certificate (Basic, Alternates II, and III).

(28) [52.225-6](#), Trade Agreements Certificate.

(29) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan-Certification.

(30) [52.225-25](#), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications.

(31) [52.226-2](#), Historically Black College or University and Minority Institution Representation.

(32) [52.227-6](#), Royalty Information (Basic & Alternate I).

(33) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

(b) The contracting officer shall insert the clause at [52.204-19](#), Incorporation by Reference of Representations and Certifications, in solicitations and contracts.

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PART 14 — SEALED BIDDING

* * * * *

Subpart 14.4 — Opening of Bids and Award of Contract

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14.405 Minor informalities or irregularities in bids.

A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from

the exact requirements of the invitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the supplies or services being acquired. The contracting officer either shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive the deficiency, whichever is to the advantage of the Government. Examples of minor informalities or irregularities include failure of a bidder to-

(a) Return the number of copies of signed bids required by the invitation;

(b) Furnish required information concerning the number of its employees;

(c) Sign its bid, but only if-

(1) The unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid (such as the submission of a bid guarantee or a letter signed by the bidder, with the bid, referring to and clearly identifying the bid itself); or

(2) The firm submitting a bid has formally adopted or authorized, before the date set for opening of bids, the execution of documents by typewritten, printed, or stamped signature and submits evidence of such authorization and the bid carries such a signature;

(d) Acknowledge receipt of an amendment to an invitation for bids, but only if-

(1) The bid received clearly indicates that the bidder received the amendment, such as where the amendment added another item to the invitation and the bidder submitted a bid on the item; or

(2) The amendment involves only a matter of form or has either no effect or merely a negligible effect on price, quantity, quality, or delivery of the item bid upon.

* * * * *

PART 19 — SMALL BUSINESS PROGRAMS

* * * * *

Subpart 19.6 — Certificates of Competency and Determinations of Responsibility

* * * * *

19.602 Procedures.

19.602-1 Referral.

(a) Upon determining and documenting that an apparent successful small business offeror lacks certain elements of responsibility (including, but not limited to, capability, competency, capacity, credit, integrity, perseverance, tenacity, and limitations on subcontracting, but for sureties see [28.101-3\(f\)](#) and [28.203-1\(e\)](#)), the contracting officer shall-

(1) Withhold contract award (see [19.602-3](#)); and

(2) Refer the matter to the cognizant SBA Government Contracting Area Office (Area Office) serving the area in which the headquarters of the offeror is located, in accordance with agency procedures, except that referral is not necessary if the small business concern-

(i) Is determined to be unqualified and ineligible because it does not meet the standard in [9.104-1\(g\)](#), provided, that the determination is approved by the chief of the contracting office; or

(ii) Is suspended or debarred under [subpart 9.4](#).

(b) If a partial set-aside is involved, the contracting officer shall refer to the SBA the entire quantity to which the concern may be entitled, if responsible.

(c) The referral shall include-

(1) A notice that a small business concern has been determined to be nonresponsible, specifying the elements of responsibility the contracting officer found lacking; and

(2) If applicable, a copy of the following:

(i) Solicitation.

(ii) Final offer submitted by the concern whose responsibility is at issue for the procurement.

(iii) Abstract of bids or the contracting officer's price negotiation memorandum.

(iv) Preaward survey.

(v) Technical data package (including drawings, specifications and statement of work).

(vi) Any other justification and documentation used to arrive at the nonresponsibility determination.

(d) For any single acquisition, the contracting officer shall make only one referral at a time regarding a determination of nonresponsibility.

(e) Contract award shall be withheld by the contracting officer for a period of 15 business days (or longer if agreed to by the SBA and the contracting officer) following receipt by the appropriate SBA Area Office of a referral that includes all required documentation.

* * * * *

PART 22 — APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

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Subpart 22.8 [Reserved]

* * * * *

PART 52 — SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

52.204-8 Annual Representations and Certifications.

As prescribed in 4.1202(a), insert the following provision:

Annual Representations and Certifications (JAN 2025)(DEVIATION FEB 2025)

(a) (1) The North American Industry Classification System (NAICS) code for this acquisition is _____ [insert NAICS code].

(2) The small business size standard is _____ [insert size standard].

(3) The small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees, or 150 employees for information technology value-added resellers under NAICS code 541519 if the acquisition—

(i) Is set aside for small business and has a value above the simplified acquisition threshold;

(ii) Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(iii) Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged

women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(b) (1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the provision at 52.204-7, System for Award Management, is not included in this solicitation, and the Offeror has an active registration in the System for Award Management (SAM), the Offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The Offeror shall indicate which option applies by checking one of the following boxes:

(i) Paragraph (d) applies.

(ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)(1) The following representations or certifications in SAM are applicable to this solicitation as indicated:

(i) [52.203-2](#), Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—

(A) The acquisition is to be made under the simplified acquisition procedures in [part 13](#);

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) [52.203-11](#), Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.

(iii) [52.203-18](#), Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation. This provision applies to all solicitations.

(iv) [52.204-3](#), Taxpayer Identification. This provision applies to solicitations that do not include the provision at [52.204-7](#), System for Award Management.

(v) [52.204-5](#), Women-Owned Business (Other Than Small Business). This provision

applies to solicitations that-

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(vi) [52.204-26](#), Covered Telecommunications Equipment or Services-Representation. This provision applies to all solicitations.

(vii) [52.209-2](#), Prohibition on Contracting with Inverted Domestic Corporations-Representation.

(viii) [52.209-5](#), Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(ix) [52.209-11](#), Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

(x) [52.214-14](#), Place of Performance-Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(xi) [52.215-6](#), Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(xii) [52.219-1](#), Small Business Program Representations (Basic, Alternates I, and II). This provision applies to solicitations when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(C) The provision with its Alternate II applies to solicitations that will result in a multiple-award contract with more than one NAICS code assigned.

(xiii) [52.219-2](#), Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract is for supplies to be delivered or services to be

performed in the United States or its outlying areas, or when the contracting officer has applied [part 19](#) in accordance with [19.000\(b\)\(1\)\(ii\)](#).

(xiv) [Reserved].

(xv) [Reserved].

(xvi) [52.222-38](#), Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial products or commercial services.

(xvii) [52.223-1](#), Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of biobased products in USDA-designated product categories; or include the clause at [52.223-2](#), Reporting of Biobased Products Under Service and Construction Contracts.

(xviii) [52.223-4](#), Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xix) [52.223-22](#), Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation. This provision applies to solicitations that include the provision at [52.204-7](#).

(xx) [52.225-2](#), Buy American Certificate. This provision applies to solicitations containing the clause at [52.225-1](#).

(xxi) [52.225-4](#), Buy American-Free Trade Agreements-Israeli Trade Act Certificate. (Basic, Alternates II and III.) This provision applies to solicitations containing the clause at [52.225-3](#).

(A) If the acquisition value is less than \$50,000, the basic provision applies.

(B) If the acquisition value is \$50,000 or more but is less than \$100,000, the provision with its Alternate II applies.

(C) If the acquisition value is \$100,000 or more but is less than \$102,280, the provision with its Alternate III applies.

(xxii) [52.225-6](#), Trade Agreements Certificate. This provision applies to solicitations containing the clause at [52.225-5](#).

(xxiii) [52.225-20](#), Prohibition on Conducting Restricted Business Operations in Sudan-Certification. This provision applies to all solicitations.

(xxiv) [52.225-25](#), Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. This provision applies to all solicitations.

(xxv) [52.226-2](#), Historically Black College or University and Minority Institution Representation. This provision applies to solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions.

(2) The following representations or certifications are applicable as indicated by the Contracting Officer:

[Contracting Officer check as appropriate.]

(i) [52.204-17](#), Ownership or Control of Offeror.

(ii) [52.204-20](#), Predecessor of Offeror.

(iii) [52.222-18](#), Certification Regarding Knowledge of Child Labor for Listed End Products.

(iv) [52.222-48](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment- Certification.

(v) [52.222-52](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Certification.

(vi) [52.227-6](#), Royalty Information.

(A) Basic.

(B) Alternate I.

(vii) [52.227-15](#), Representation of Limited Rights Data and Restricted Computer Software.

* * * * *

52.212-3 Offeror Representations and Certifications — Commercial Products and Commercial Services.

As prescribed in 12.301(b)(2), insert the following provision:

Offeror Representations and Certifications — Commercial Products and Commercial Services (MAY 2024)(DEVIATION FEB 2025)

* * * * *

(d) [Reserved]

* * * * *

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services.

As prescribed in 12.301(b)(4), insert the following clause:

Contract Terms and Conditions Required To Implement Statutes or Executive Orders —
Commercial Products and Commercial Services (JAN 2025)(DEVIATION FEB 2025)

(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 products and commercial services:

(1) [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](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of Pub. L. 115-91).

(3) [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(5) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) ([31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)).

(6) [52.233-3](#), Protest After Award (AUG 1996) (31 U.S.C. 3553).

(7) [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)).

(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 products and commercial services:

[Contracting Officer check as appropriate.]

___ (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (JUN 2020), with *Alternate I* (Nov 2021) (41 U.S.C. 4704 and [10 U.S.C. 4655](#)).

___ (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509)).

___ (3) [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.)

___ (4) [52.203-17](#), Contractor Employee Whistleblower Rights (Nov 2023) ([41 U.S.C. 4712](#)); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR [3.900](#)(a).

___ (5) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

___ (6) [Reserved].

___ (7) [52.204-14](#), Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

___ (8) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

___ (9) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

___ (10) [52.204-28](#), Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts. (DEC 2023) ([Pub. L. 115–390](#), title II).

___ (11)(i) [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) ([Pub. L. 115–390](#), title II).

___ (ii) Alternate I (DEC 2023) of [52.204-30](#).

___ (12) [52.209-6](#), Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded. (JAN 2025) ([31 U.S.C. 6101 note](#)).

___ (13) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) ([41 U.S.C. 2313](#)).

__ (14) [Reserved].

__ (15) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (OCT 2022) ([15 U.S.C. 657a](#)).

__ (16) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).

__ (17) [Reserved]

__ (18)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).

__ (ii) Alternate I (MAR 2020) of [52.219-6](#).

__ (19)(i) [52.219-7](#), Notice of Partial Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).

__ (ii) Alternate I (MAR 2020) of [52.219-7](#).

__ (20) [52.219-8](#), Utilization of Small Business Concerns (JAN 2025)([15 U.S.C. 637\(d\)\(2\)](#) and (3)).

__ (21)(i) [52.219-9](#), Small Business Subcontracting Plan (JAN 2025) ([15 U.S.C. 637\(d\)\(4\)](#)).

__ (ii) Alternate I (Nov 2016) of [52.219-9](#).

__ (iii) Alternate II (Nov 2016) of [52.219-9](#).

__ (iv) Alternate III (JUN 2020) of [52.219-9](#).

__ (v) Alternate IV (JAN 2025) of [52.219-9](#).

__ (22)(i) [52.219-13](#), Notice of Set-Aside of Orders (MAR 2020) (15 U.S.C. 644(r)).

__ (ii) Alternate I (MAR 2020) of [52.219-13](#).

__ (23) [52.219-14](#), Limitations on Subcontracting (OCT 2022) (15 U.S.C. 657s).

__ (24) [52.219-16](#), Liquidated Damages—Subcontracting Plan (SEP 2021) (15 U.S.C. 637(d)(4)(F)(i)).

__ (25) [52.219-27](#), Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program (FEB 2024) (15 U.S.C. 657f).

__ (26)(i) [52.219-28](#), Postaward Small Business Program Rerepresentation (JAN 2025) (15 U.S.C. 632(a)(2)).

__ (ii) Alternate I (MAR 2020) of [52.219-28](#).

__ (27) [52.219-29](#), Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (OCT 2022) (15 U.S.C. 637(m)).

__ (28) [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 (OCT 2022) (15 U.S.C. 637(m)).

__ (29) [52.219-32](#), Orders Issued Directly Under Small Business Reserves (MAR 2020) ([15 U.S.C. 644](#)(r)).

__ (30) [52.219-33](#), Nonmanufacturer Rule (SEP 2021) ([15 U.S.C. 637](#)(a)(17)).

__ (31) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).

__ (32) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (JAN 2025)([E.O. 13126](#)).

__ (33) [Reserved].

__ (34)(i) [Reserved].

__ (35)(i) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ([38 U.S.C. 4212](#)).

__ (ii) Alternate I (JUL 2014) of [52.222-35](#).

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

__ (ii) Alternate I (JUL 2014) of [52.222-36](#).

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

__ (38) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).

__ (39)(i) [52.222-50](#), Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O. 13627).

__ (ii) Alternate I (MAR 2015) of [52.222-50](#) (22 U.S.C. chapter 78 and E.O. 13627).

__ (40) [52.222-54](#), Employment Eligibility Verification (JAN 2025) ([Executive Order](#)

[12989](#)). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR [22.1803](#).)

__ (41)(i) [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)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

__ (ii) Alternate I (MAY 2008) of [52.223-9](#) (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)

__ (42) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (43) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (44) [52.223-20](#), Aerosols (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (45) [52.223-21](#), Foams (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*).

__ (46) [52.223-23](#), Sustainable Products and Services (MAY 2024) ([E.O. 14057](#), [7 U.S.C. 8102](#), [42 U.S.C. 6962](#), [42 U.S.C. 8259b](#), and [42 U.S.C. 7671i](#)).

__ (47)(i) [52.224-3](#) Privacy Training (JAN 2017) ([5 U.S.C. 552](#) a).

__ (ii) Alternate I (JAN 2017) of [52.224-3](#).

__ (48)(i) [52.225-1](#), Buy American-Supplies (OCT 2022) (41 U.S.C. chapter 83).

__ (ii) Alternate I (OCT 2022) of [52.225-1](#).

__ (49)(i) [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act (NOV 2023) ([19 U.S.C. 3301 note](#), [19 U.S.C. 2112 note](#), [19 U.S.C. 3805 note](#), [19 U.S.C. 4001 note](#), [19 U.S.C. chapter 29](#) (sections 4501-4732), Public Law 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 [Reserved].

__ (iii) Alternate II (JAN 2025) of [52.225-3](#).

__ (iv) Alternate III (FEB 2024) of [52.225-3](#).

__ (v) Alternate IV (Oct 2022) of [52.225-3](#).

__ (50) [52.225-5](#), Trade Agreements (NOV 2023) ([19 U.S.C. 2501](#), *et seq.*, [19 U.S.C.](#)

[3301](#) note).

__ (51) [52.225-13](#), Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

__ (52) [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. Subtitle A, Part V, Subpart G Note).

__ (53) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).

__ (54) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).

__ (55) [52.226-8](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (MAY 2024) ([E.O. 13513](#)).

__ (56) [52.229-12](#), Tax on Certain Foreign Procurements (FEB 2021).

__ (57) [52.232-29](#), Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, [10 U.S.C. 3805](#)).

__ (58) [52.232-30](#), Installment Payments for Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, [10 U.S.C. 3805](#)).

__ (59) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (OCT 2018) ([31 U.S.C. 3332](#)).

__ (60) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C. 3332).

__ (61) [52.232-36](#), Payment by Third Party (MAY 2014) (31 U.S.C. 3332).

__ (62) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ([5 U.S.C. 552a](#)).

__ (63) [52.240-1](#), Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (Nov 2024) (Sections 1821-1826, Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.).

__ (64) [52.242-5](#), Payments to Small Business Subcontractors (JAN 2017) (15 U.S.C. 637(d)(13)).

__ (65)(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ([46 U.S.C. 55305](#) and 10 U.S.C. 2631).

___ (ii) Alternate I (APR 2003) of [52.247-64](#).

___ (iii) Alternate II (Nov 2021) of [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 products and commercial services:

[*Contracting Officer check as appropriate.*]

___ (1) [52.222-41](#), Service Contract Labor Standards (AUG 2018) (41 U.S.C. chapter 67).

___ (2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (MAY 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

___ (3) [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 and 41 U.S.C. chapter 67).

___ (4) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) ([29 U.S.C. 206](#) and 41 U.S.C. chapter 67).

___ (5) [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).

___ (6) [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).

___ (7) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

___ (8) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

___ (9) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792).

___ (10) [52.247-69](#), Reporting Requirement for U.S.-Flag Air Carriers Regarding Training to Prevent Human Trafficking (JAN 2025) ([49 U.S.C. 40118\(g\)](#)).

(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](#), on the date

of award of this contract, and does not contain the clause at [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](#), 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 products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509).

(ii) [52.203-17](#), Contractor Employee Whistleblower Rights (Nov 2023) ([41 U.S.C. 4712](#)).

(iii) [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)).

(iv) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of

Pub. L. 115-91).

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

(vi) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(vii)(A) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) ([Pub. L. 115–390](#), title II).

(B) Alternate I (DEC 2023) of 52.204–30.

(viii) [52.219-8](#), Utilization of Small Business Concerns (JAN 2025) ([15 U.S.C. 637\(d\)\(2\)](#) 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\(a\)](#) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(ix) [Reserved].

(x) [Reserved].

(xi) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

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

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

(xiv) [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](#).

(xv) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ([41 U.S.C. chapter 67](#)).

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

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

(xvii) [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).

(xviii) [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).

(xix) [52.222-54](#), Employment Eligibility Verification (JAN 2025) ([E.O. 12989](#)).

(xx) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

(xxi) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

(xxii)(A) [52.224-3](#), Privacy Training (Jan 2017) ([5 U.S.C. 552a](#)).

(B) Alternate I (JAN 2017) of [52.224-3](#).

(xxiii) [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. Subtitle A, Part V, Subpart G Note).

(xxiv) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).

(xxv) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) ([31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)). Flow down required in accordance with paragraph (c) of [52.232-40](#).

(xxvi) [52.240-1](#), Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (Nov 2024) (Sections 1821-1826, Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.).

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

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

(End of clause)

Alternate I (FEB 2000). As prescribed in [12.301](#) (b)(4)(i), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause".

Alternate II (JAN 2025). As prescribed in [12.301](#) (b)(4)(ii), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8 G of the Inspector General Act of 1978 ([5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial products or commercial services, other than—

(i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) (41 U.S.C. 3509).

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).

(C) [52.203-17](#), Contractor Employee Whistleblower Rights (Nov 2023) ([41 U.S.C. 4712](#)).

(D) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of Pub. L. 115-91).

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

(F) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(G) __ (1) [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) ([Pub. L. 115-390](#), title II).

__ (2) Alternate I (DEC 2023) [52.204-30](#).

(H) [52.219-8](#), Utilization of Small Business Concerns (JAN 2025) ([15 U.S.C. 637\(d\)\(2\) 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\(a\)](#) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(I) [Reserved].

(J) [Reserved].

(K) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) (38 U.S.C. 4212).

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

(M) [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](#).

(N) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ([41 U.S.C. chapter 67](#)).

(O) __ (1) [52.222-50](#), Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O 13627).

__ (2) Alternate I (MAR 2015) of [52.222-50](#) (22 U.S.C. chapter 78 and E.O. 13627).

(P) [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](#)).

(Q) [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](#)).

(R) [52.222-54](#), Employment Eligibility Verification (JAN 2025) ([Executive Order 12989](#)).

(S) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

(T) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

(U)___ (1) [52.224-3](#), Privacy Training (JAN 2017) ([5 U.S.C. 552a](#)).

___ (2) Alternate I (JAN 2017) of [52.224-3](#).

(V) [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. Subtitle A, Part V, Subpart G Note).

(W) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations. (JUN 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(X) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) ([31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)). Flow down required in accordance with paragraph (c) of [52.232-40](#).

(Y) 52.240-1, Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (Nov 2024) (Sections 1821-1826, Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.).

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

* * * * *

52.213-4 Terms and Conditions — Simplified Acquisitions (Other Than Commercial Products and Commercial Services).

As prescribed in 13.302-5(d), insert the following clause:

Terms and Conditions — Simplified Acquisitions (Other Than Commercial Products and Commercial Services) (JAN 2025)(DEVIATION FEB 2025)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR)

clauses that are incorporated by reference:

(1) The clauses listed below implement provisions of law or Executive order:

(i) [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)).

(ii) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of Pub. L. 115-91).

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

(iv) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328), unless the agency grants an exception - see paragraph (b) of 52.204-27.

(v) [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

(vi) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).

(vii) [Reserved].

(viii) [Reserved].

(ix) [52.225-13](#), Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(x) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) ([31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)).

(xi) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(xii) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) ([Pub. L. 108-77](#) and 108-78 ([19 U.S.C. 3805 note](#))).

(2) Listed below are additional clauses that apply:

- (i) [52.232-1](#), Payments (APR 1984).
- (ii) [52.232-8](#), Discounts for Prompt Payment (FEB 2002).
- (iii) [52.232-11](#), Extras (APR 1984).
- (iv) [52.232-25](#), Prompt Payment (JAN 2017).
- (v) [52.232-39](#), Unenforceability of Unauthorized Obligations (JUN 2013).
- (vi) [52.233-1](#), Disputes (MAY 2014).
- (vii) [52.244-6](#), Subcontracts for Commercial Products and Commercial Services (JAN 2025).
- (viii) [52.253-1](#), Computer Generated Forms (JAN 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

(1) The clauses listed below implement provisions of law or Executive order:

- (i) [52.203-17](#), Contractor Employee Whistleblower Rights (Nov 2023) ([41 U.S.C. 4712](#)); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR [3.900](#)(a).
- (ii) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020)(Pub. L. 109-282) ([31 U.S.C. 6101 note](#)) (Applies to contracts valued at or above the threshold specified in FAR [4.1403](#)(a) on the date of award of this contract).
- (iii) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (JAN 2025) ([E.O. 13126](#)) (Applies to contracts for supplies exceeding the micro-purchase threshold, as defined in [2.101](#) on the date of award of this contract).
- (iv) [52.222-20](#), Contracts for Materials, Supplies, Articles, and Equipment., Contracts for Materials, Supplies, Articles, and Equipment (JUN 2020) ([41 U.S.C. chapter 65](#)) (Applies to supply contracts over the threshold specified in FAR 22.602 on the date of award of this contract, in the United States, Puerto Rico, or the U.S. Virgin Islands).
- (v) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ([38 U.S.C. 4212](#)) (Applies to contracts valued at or above the threshold specified in FAR [22.1303](#)(a) on the date of award of this contract).
- (vi) [52.222-36](#), Equal Employment for Workers with Disabilities (JUN 2020) ([29 U.S.C.](#)

[793](#)) (Applies to contracts over the threshold specified in FAR [22.1408](#)(a) on the date of award of this contract, unless the work is to be performed outside the United States by employees recruited outside the United States). (For purposes of this clause, "United States" includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)

(vii) [52.222-37](#), Employment Reports on Veterans (JUN 2020) (38 U.S.C. 4212) (Applies to contracts valued at or above the threshold specified in FAR [22.1303](#)(a) on the date of award of this contract).

(viii) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ([41 U.S.C. chapter 67](#)) (Applies to service contracts over \$2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).

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

(B) Alternate I (MAR 2015) (Applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies).

(x) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022) (Applies when [52.222-6](#) or [52.222-41](#) are in the contract and performance in whole or in part is in the United States (the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act ([43 U.S.C. 1331](#), *et seq.*))).

(xi) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706) (Applies when [52.222-6](#) or [52.222-41](#) are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia.))

(xii) [52.223-5](#), Pollution Prevention and Right-to-Know Information (MAY 2024) ([42 U.S.C. 11001-11050](#) and [13101-13109](#)) (Applies to services performed on Federal facilities).

(xiii) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*) (Applies to contracts for products as prescribed at FAR [23.109](#)(d)(1)).

(xiv) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*) (Applies to maintenance, service, repair, or disposal of refrigeration equipment and air conditioners).

(xv) [52.223-20](#), Aerosols (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons as a propellant or as a solvent; or contracts for maintenance or repair of electronic or mechanical devices).

(xvi) [52.223-21](#), Foams (MAY 2024) ([42 U.S.C. 7671](#), *et seq.*) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent; or contracts for construction of buildings or facilities.

(xvii) [52.223-23](#), Sustainable Products and Services (MAY 2024) ([E.O. 14057](#), [7 U.S.C. 8102](#), [42 U.S.C. 6962](#), [42 U.S.C. 8259b](#), and [42 U.S.C. 7671](#)) (Applies to contracts when the agency identifies in the statement of work, or elsewhere in the contract, the sustainable products and services that apply to the acquisition).

(xviii)(A) [52.225-1](#), Buy American-Supplies (OCT 2022) (41 U.S.C. chapter 67) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold, as defined in [2.101](#) on the date of award of this contract, and the acquisition-

(1) Is set aside for small business concerns; or

(2) Cannot be set aside for small business concerns (see [19.502-2](#)), and does not exceed \$50,000).

(B) *Alternate 1* (OCT 2022) (Applies if the Contracting Officer has filled in the domestic content threshold below, which will apply to the entire contract period of performance. Substitute the following sentence for the first sentence of paragraph (1)(ii)(A) of the definition of *domestic end product* in paragraph (a) of [52.225-1](#): (A) The cost of its components mined, produced, or manufactured in the United States exceeds _____ percent of the cost of all its components. [*Contracting officer to insert the percentage per instructions at [13.302-5\(d\)\(4\)](#).*])

(xix) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations., Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) (42 U.S.C. 1792) (Applies to contracts greater than the threshold specified in FAR [26.404](#) on the date of award of this contract, that provide for the provision, the service, or the sale of food in the United

States).

(xx) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (OCT 2013)(Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) as its source of EFT information).

(xxi) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (JUL 2013) (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information).

(xxii) [52.240-1](#), Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (Nov 2024) (Sections 1821-1826, Pub. L. 118-31, [41 U.S.C. 3901](#) note prec.).

(xxiii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ([46 U.S.C. 55305](#))(Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at [47.504](#)(d)).

(xxiv) [52.247-69](#), Reporting Requirement for U.S.-Flag Air Carriers Regarding Training to Prevent Human Trafficking (JAN 2025) ([49 U.S.C. 40118\(g\)](#)). (Applies to contracts with a U.S.-flag carrier for the transportation by air of passengers; does not apply to contracts awarded by the Department of Defense or contracts for commercial products).

(2) Listed below are additional clauses that may apply:

(i) [52.204-21](#), Basic Safeguarding of Covered Contractor Information Systems (Nov 2021) (Applies to contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.)

(ii) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, Proposed for Debarment, or Voluntarily Excluded (JAN 2025) (Applies to contracts over the threshold specified in FAR [9.405-2](#)(b) on the date of award of this contract).

(iii) [52.211-17](#), Delivery of Excess Quantities (SEPT 1989) (Applies to fixed-price supplies).

(iv) [52.247-29](#), F.o.b. Origin (FEB 2006) (Applies to supplies if delivery is f.o.b. origin).

(v) [52.247-34](#), F.o.b. Destination (JAN 1991) (Applies to supplies if delivery is f.o.b. destination).

(c) *FAR 52.252-2, Clauses Incorporated by Reference (Feb 1998)*. This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

[Insert one or more Internet addresses]

(d) *Inspection/Acceptance*. The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its postacceptance rights-

(1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(e) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(f) *Termination for the Government's convenience*. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work.

Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(g) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(h) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(End of clause)

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52.222-9 Apprentices and Trainees.

As prescribed in 22.407(a), insert the following clause:

Apprentices and Trainees (JUL 2005) (DEVIATION FEB 2025)

(a) Apprentices.(1) An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed-

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if

certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

(5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) Trainees.(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

(2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.

(3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(End of clause)

52.222-21 [Reserved]

52.222-22 [Reserved]

52.222-23 [Reserved]

52.222-24 [Reserved]

52.222-25 [Reserved]

52.222-26 [Reserved]

52.222-27 [Reserved]

52.222-29 [Reserved]

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52.244-6 Subcontracts for Commercial Products and Commercial Services.

As prescribed in 44.403, insert the following clause:

Subcontracts for Commercial Products and Commercial Services (JAN
2025)(DEVIATION FEB 2025)

(a) Definitions. As used in this clause—

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

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

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

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

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

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

(iii) [52.203-17](#), Contractor Employee Whistleblower Rights (Nov 2023) ([41 U.S.C. 4712](#)); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community—see FAR [3.900](#)(a).

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

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

(vi) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (DEC 2023) (Section 1634 of Pub. L. 115-91).

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

(viii) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(ix)(A) [52.204-30](#), Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) ([Pub. L. 115–390](#), title II).

(B) Alternate I (DEC 2023) of [52.204-30](#).

(x) [52.219-8](#), Utilization of Small Business Concerns (JAN 2025) ([15 U.S.C.637](#)(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702](#)(a) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(xi) [Reserved].

(xii) [Reserved].

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

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

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

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

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

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

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

[52.222-55.](#)

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

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

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

(xxi) [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. Subtitle A, Part V, Subpart G Note).

(xxii) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) , if flow down is required in accordance with paragraph (c) of FAR clause [52.232-40](#).

(xxiii) [52.240-1](#), Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities (Nov 2024) (Sections 1821-1826, Pub. L. 118-31, 41 U.S.C. 3901 note prec.).

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

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

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

(End of clause)

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