

FEDERAL ACQUISITION CIRCULAR

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Revised pages

Federal Acquisition Circular (FAC) 2005-71 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-71 were effective November 25, 2013 except for item I which is effective December 26, 2013.

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FAC 2005-71 FILING INSTRUCTIONS
Revised pages

NOTE: The following pages reflect FAR amendments. Please do not file these pages until their effective date of December 26, 2013.

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Subpart 12.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

12.300 Scope of subpart.

This subpart establishes provisions and clauses to be used when acquiring commercial items.

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(a) In accordance with Section 8002 of Public Law 103-355 ([41 U.S.C. 264](#), note), contracts for the acquisition of commercial items shall, to the maximum extent practicable, include only those clauses—

(1) Required to implement provisions of law or executive orders applicable to the acquisition of commercial items; or

(2) Determined to be consistent with customary commercial practice.

(b) Insert the following provisions in solicitations for the acquisition of commercial items, and clauses in solicitations and contracts for the acquisition of commercial items:

(1) *The provision at [52.212-1](#), Instructions to Offerors—Commercial Items.* This provision provides a single, streamlined set of instructions to be used when soliciting offers for commercial items and is incorporated in the solicitation by reference (see Block 27a, [SF 1449](#)). The contracting officer may tailor these instructions or provide additional instructions tailored to the specific acquisition in accordance with [12.302](#).

(2) *The provision at [52.212-3](#), Offeror Representations and Certifications—Commercial Items.* This provision provides a single, consolidated list of representations and certifications for the acquisition of commercial items and is attached to the solicitation for offerors to complete. This provision may not be tailored except in accordance with [Subpart 1.4](#). Use the provision with its Alternate I in solicitations issued by DoD, NASA, or the Coast Guard. Use the provision with its Alternate II in solicitations for acquisitions for which small disadvantaged business procurement mechanisms are authorized on a regional basis.

(3) *The clause at [52.212-4](#), Contract Terms and Conditions—Commercial Items.* This clause includes terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practices and is incorporated in the solicitation and contract by reference (see Block 27, [SF 1449](#)). Use this clause with its Alternate I when a time-and-materials or labor-hour contract will be awarded. The contracting officer may tailor this clause in accordance with [12.302](#).

(4) *The clause at [52.212-5](#), Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.* This clause incorporates by reference only

those clauses required to implement provisions of law or Executive orders applicable to the acquisition of commercial items. The contracting officer shall attach this clause to the solicitation and contract and, using the appropriate clause prescriptions, indicate which, if any, of the additional clauses cited in [52.212-5](#)(b) or (c) are applicable to the specific acquisition. Some of the clauses require fill-in; the fill-in language should be inserted as directed by [52.104](#)(d). When cost information is obtained pursuant to [Part 15](#) to establish the reasonableness of prices for commercial items, the contracting officer shall insert the clauses prescribed for this purpose in an addendum to the solicitation and contract. This clause may not be tailored.

(i) Use the clause with its Alternate I when the head of the agency has waived the examination of records by the Comptroller General in accordance with [25.1001](#).

(ii)(A) If the acquisition will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5), the contracting officer shall use the clause with its Alternate II.

(B) (1) In the case of a bilateral contract modification that will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, the contracting officer shall specify applicability of Alternate II to that modification.

(2) In the case of a task- or delivery-order contract in which not all orders will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, the contracting officer shall specify the task or delivery orders to which Alternate II applies.

(C) The contracting officer may not use Alternate I when Alternate II applies.

(c) When the use of evaluation factors is appropriate, the contracting officer may—

(1) Insert the provision at [52.212-2](#), Evaluation—Commercial Items, in solicitations for commercial items (see [12.602](#)); or

(2) Include a similar provision containing all evaluation factors required by [13.106](#), [Subpart 14.2](#) or [Subpart 15.3](#), as an addendum (see [12.302](#)(d)).

(d) *Other required provisions and clauses.* (1) Notwithstanding prescriptions contained elsewhere in the FAR, when acquiring commercial items, contracting officers shall be required to use only those provisions and clauses prescribed in this part. The provisions and clauses prescribed in this part shall be revised, as necessary, to reflect the applicability of statutes and executive orders to the acquisition of commercial items.

(2) Insert the clause at [52.225-19](#), Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission outside the United States, as prescribed in [25.301-4](#).

(3) Insert the provision at [52.209-7](#), Information Regarding Responsibility Matters, as prescribed in [9.104-7\(b\)](#).

(4) Insert the clause at [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors, as prescribed in [32.009-2](#).

(e) *Discretionary use of FAR provisions and clauses.* The contracting officer may include in solicitations and contracts by addendum other FAR provisions and clauses when their use is consistent with the limitations contained in [12.302](#). For example:

(1) The contracting officer may include appropriate clauses when an indefinite-delivery type of contract will be used. The clauses prescribed at [16.506](#) may be used for this purpose.

(2) The contracting officer may include appropriate provisions and clauses when the use of options is in the Government's interest. The provisions and clauses prescribed in [17.208](#) may be used for this purpose. If the provision at [52.212-2](#) is used, paragraph (b) provides for the evaluation of options.

(3) The contracting officer may use the provisions and clauses contained in [Part 23](#) regarding the use of products containing recovered materials and biobased products when appropriate for the item being acquired.

(4) When setting aside under the Stafford Act ([Subpart 26.2](#)), include the provision at [52.226-3](#), Disaster or Emergency Area Representation, in the solicitation. The representation in this provision is not in the System for Award Management database.

(f) Agencies may supplement the provisions and clauses prescribed in this part (to require use of additional provisions and clauses) only as necessary to reflect agency unique statutes applicable to the acquisition of commercial items or as may be approved by the agency senior procurement executive, or the individual responsible for representing the agency on the FAR Council, without power of delegation.

12.302 Tailoring of provisions and clauses for the acquisition of commercial items.

(a) *General.* The provisions and clauses established in this subpart are intended to address, to the maximum extent practicable, commercial market practices for a wide range of potential Government acquisitions of commercial items. However, because of the broad range of commercial items acquired by the Government, variations in commercial practices, and the relative volume of the Government's acquisitions in the specific market, contracting officers may, within the limitations of this subpart, and after conducting appropriate market research, tailor the provision at [52.212-1](#), Instructions to Offerors—Commercial Items, and the clause at [52.212-4](#), Contract Terms and Conditions—Commercial Items, to adapt to the market conditions for each acquisition.

(b) *Tailoring [52.212-4](#), Contract Terms and Conditions—Commercial Items.* The following paragraphs of the clause at [52.212-4](#), Contract Terms and Conditions—Commercial Items, implement statutory requirements and shall not be tailored—

- (1) Assignments;
- (2) Disputes;
- (3) Payment (except as provided in [Subpart 32.11](#));
- (4) Invoice;
- (5) Other compliances;
- (6) Compliance with laws unique to Government contracts; and
- (7) Unauthorized obligations.

(c) *Tailoring inconsistent with customary commercial practice.* The contracting officer shall not tailor any clause or otherwise include any additional terms or conditions in a solicitation or contract for commercial items in a manner that is inconsistent with customary commercial practice for the item being acquired unless a waiver is approved in accordance with agency procedures. The request for waiver must describe the customary commercial practice found in the marketplace, support the need to include a term or condition that is inconsistent with that practice and include a determination that use of the customary commercial practice is inconsistent with the needs of the Government. A waiver may be requested for an individual or class of contracts for that specific item.

(d) Tailoring shall be by addenda to the solicitation and contract. The contracting officer shall indicate in Block 27a of the [SF 1449](#) if addenda are attached. These addenda may include, for example, a continuation of the schedule of supplies/services to be acquired from blocks 18 through 21 of the [SF 1449](#); a continuation of the description of the supplies/services being acquired; further elaboration of any other item(s) on the [SF 1449](#); any other terms or conditions necessary for the performance of the proposed contract (such as options, ordering procedures for indefinite-delivery type contracts, warranties, contract financing arrangements, etc.).

12.303 Contract format.

Solicitations and contracts for the acquisition of commercial items prepared using this [Part 12](#) shall be assembled, to the maximum extent practicable, using the following format:

- (a) [Standard Form \(SF\) 1449](#);
- (b) Continuation of any block from [SF 1449](#), such as—
 - (1) Block 10 if a price evaluation adjustment for small disadvantaged business concerns is applicable (the contracting officer shall indicate the percentage(s) and applicable line item(s)), if an incentive subcontracting clause is used (the contracting officer shall indicate the applicable percentage);
 - (2) Block 18B for remittance address;
 - (3) Block 19 for contract line item numbers;
 - (4) Block 20 for schedule of supplies/services; or
 - (5) Block 25 for accounting data;

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- (c) Contract clauses—
- (1) [52.212-4](#), Contract Terms and Conditions—Commercial Items, by reference (see [SF 1449](#) block 27a);
 - (2) Any addendum to [52.212-4](#); and
 - (3) [52.212-5](#), Contract Terms and Conditions Required to Implement Statutes and Executive orders;
 - (d) Any contract documents, exhibits or attachments; and
 - (e) Solicitation provisions—
 - (1) [52.212-1](#), Instructions to Offerors—Commercial Items, by reference (see [SF 1449](#), Block 27a);
 - (2) Any addendum to [52.212-1](#);
 - (3) [52.212-2](#), Evaluation—Commercial Items, or other description of evaluation factors for award, if used; and
 - (4) [52.212-3](#), Offeror Representations and Certifications—Commercial Items.

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PART 32—CONTRACT FINANCING

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32.000 Scope of part.

This part prescribes policies and procedures for contract financing and other payment matters. This part addresses—

- (a) Payment methods, including partial payments and progress payments based on percentage or stage of completion;
- (b) Loan guarantees, advance payments, and progress payments based on costs;
- (c) Administration of debts to the Government arising out of contracts;
- (d) Contract funding, including the use of contract clauses limiting costs or funds;
- (e) Assignment of claims to aid in private financing;
- (f) Selected payment clauses;
- (g) Financing of purchases of commercial items;
- (h) Performance-based payments; and
- (i) Electronic funds transfer payments.

32.001 Definitions.

As used in this part—

“Commercial interim payment” means any payment that is not a commercial advance payment or a delivery payment. These payments are contract financing payments for prompt payment purposes (*i.e.*, not subject to the interest penalty provisions of the Prompt Payment Act in accordance with [Subpart 32.9](#)). A commercial interim payment is given to the contractor after some work has been done, whereas a commercial advance payment is given to the contractor when no work has been done.

“Contract action” means an action resulting in a contract, as defined in [Subpart 2.1](#), including actions for additional supplies or services outside the existing contract scope, but not including actions that are within the scope and under the terms of the existing contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

“Contract financing payment” means an authorized Government disbursement of monies to a contractor prior to acceptance of supplies or services by the Government.

- (1) Contract financing payments include—
 - (i) Advance payments;
 - (ii) Performance-based payments;
 - (iii) Commercial advance and interim payments;
 - (iv) Progress payments based on cost under the clause at [52.232-16](#), Progress Payments;
 - (v) Progress payments based on a percentage or stage of completion (see [32.102\(e\)](#)), except those made under the clause at [52.232-5](#), Payments Under Fixed-Price Construction Contracts, or the clause at [52.232-10](#), Payments Under Fixed-Price Architect-Engineer Contracts; and
 - (vi) Interim payments under a cost reimbursement contract, except for a cost reimbursement contract for services when Alternate I of the clause at [52.232-25](#), Prompt Payment, is used.

- (2) Contract financing payments do not include—

- (i) Invoice payments;
- (ii) Payments for partial deliveries; or
- (iii) Lease and rental payments.

“Customary contract financing” means that financing deemed by an agency to be available for routine use by contracting officers. Most customary contract financing arrangements should be usable by contracting officers without specific reviews or approvals by higher management.

“Delivery payment” means a payment for accepted supplies or services, including payments for accepted partial deliveries. Commercial financing payments are liquidated by deduction from these payments. Delivery payments are invoice payments for prompt payment purposes.

“Designated billing office” means the office or person (governmental or nongovernmental) designated in the contract where the contractor first submits invoices and contract financing requests. The contract might designate different offices to receive invoices and contract financing requests. The designated billing office might be—

- (1) The Government disbursing office;
- (2) The contract administration office;
- (3) The office accepting the supplies delivered or services performed by the contractor;
- (4) The contract audit office; or
- (5) A nongovernmental agent.

“Designated payment office” means the office designated in the contract to make invoice payments or contract financing payments. Normally, this will be the Government disbursing office.

“Due date” means the date on which payment should be made.

“Invoice payment” means a Government disbursement of monies to a contractor under a contract or other authorization for supplies or services accepted by the Government.

- (1) Invoice payments include—
 - (i) Payments for partial deliveries that have been accepted by the Government;
 - (ii) Final cost or fee payments where amounts owed have been settled between the Government and the contractor;
 - (iii) For purposes of [Subpart 32.9](#) only, all payments made under the clause at [52.232-5](#), Payments Under Fixed-Price Construction Contracts, and the clause at [52.232-10](#), Payments Under Fixed-Price Architect-Engineer Contracts; and
 - (iv) Interim payments under a cost-reimbursement contract for services when Alternate I of the clause at [52.232-5](#), Prompt Payment, is used.

- (2) Invoice payments do not include contract financing payments.

“Liquidate” means to decrease a payment for an accepted supply item or service under a contract for the purpose of recouping financing payments previously paid to the contractor.

“Unusual contract financing” means any financing not deemed customary contract financing by the agency. Unusual contract financing is financing that is legal and proper under applicable laws, but that the agency has not authorized contracting officers to use without specific reviews or approvals by higher management.

32.002 Applicability of subparts.

(a) The following sections and subparts of this part are applicable to all purchases subject to [Part 32](#):

- (1) Sections [32.000](#) through [32.009](#).
- (2) [Subpart 32.3](#), Loan Guarantees for Defense Production.
- (3) [Subpart 32.6](#), Contract Debts.
- (4) [Subpart 32.7](#), Contract Funding.
- (5) [Subpart 32.8](#), Assignment of Claims.
- (6) [Subpart 32.9](#), Prompt Payment.
- (7) [Subpart 32.11](#), Electronic Funds Transfer.

(b) [Subpart 32.2](#), Commercial Item Purchase Financing, is applicable only to purchases of commercial items under authority of [Part 12](#).

(c) The following subparts of this part are applicable to all purchases made under any authority other than [Part 12](#):

- (1) [Subpart 32.1](#), Non-Commercial Item Purchase Financing.
- (2) [Subpart 32.4](#), Advance Payments For Non-Commercial Items.
- (3) [Subpart 32.5](#), Progress Payments Based on Costs.
- (4) [Subpart 32.10](#), Performance-Based Payments.

32.003 Simplified acquisition procedures financing.

Unless agency regulations otherwise permit, contract financing shall not be provided for purchases made under the authority of [Part 13](#).

32.004 Contract performance in foreign countries.

The enforceability of contract provisions for security of Government financing in a foreign jurisdiction is dependent upon local law and procedure. Prior to providing contract financing where foreign jurisdictions may become involved, the contracting officer shall ensure the Government's security is enforceable. This may require the provision of additional or different security than that normally provided for in the standard contract clauses.

32.005 Consideration for contract financing.

(a) *Requirement.* When a contract financing clause is included at the inception of a contract, there shall be no separate consideration for the contract financing clause. The value of the contract financing to the contractor is expected to be reflected in either (1) a bid or negotiated price that will be lower than such price would have been in the absence of the contract financing, or (2) contract terms and conditions, other

than price, that are more beneficial to the Government than they would have been in the absence of the contract financing. Adequate new consideration is required for changes to, or the addition of, contract financing after award.

(b) *Amount of new consideration.* The contractor may provide new consideration by monetary or nonmonetary means, provided the value is adequate. The fair and reasonable consideration should approximate the amount by which the price would have been less had the contract financing terms been contained in the initial contract. In the absence of definite information on this point, the contracting officer should apply the following criteria in evaluating whether the proposed new consideration is adequate:

(1) The value to the contractor of the anticipated amount and duration of the contract financing at the imputed financial costs of the equivalent working capital.

(2) The estimated profit rate to be earned through contract performance.

(c) *Interest.* Except as provided in [Subpart 32.4](#), Advance Payments for Non-Commercial Items, the contract shall not provide for any other type of specific charges, such as interest, for contract financing.

32.006 Reduction or suspension of contract payments upon finding of fraud.

32.006-1 General.

(a) Under Title 10 of the United States Code, the statutory authority implemented by this section is available to the Department of Defense and the National Aeronautics and Space Administration; this statutory authority is not available to the United States Coast Guard. Under the Federal Property and Administrative Services Act ([41 U.S.C. 255](#)), this statutory authority is available to all agencies subject to that Act.

(b) [10 U.S.C. 2307\(i\)\(2\)](#) and [41 U.S.C. 255](#), as amended by the Federal Acquisition Streamlining Act of 1994, Public Law 103-355, provide for a reduction or suspension of further payments to a contractor when the agency head determines there is substantial evidence that the contractor's request for advance, partial, or progress payments is based on fraud. This authority does not apply to commercial interim payments under [Subpart 32.2](#), or performance-based payments under [Subpart 32.10](#).

(c) The agency head may not delegate his or her responsibilities under these statutes below Level IV of the Executive Schedule.

(d) Authority to reduce or suspend payments under these statutes is in addition to other Government rights, remedies, and procedures.

(e) In accordance with these statutes, agency head determinations and decisions under this section may be made for an individual contract or any group of contracts affected by the fraud.

32.006-2 Definition.

“Remedy coordination official,” as used in this section, means the person or entity in the agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities. (See [10 U.S.C. 2307\(i\)\(10\)](#) and [41 U.S.C. 255\(g\)\(9\)](#).)

32.006-3 Responsibilities.

(a) Agencies shall establish appropriate procedures to implement the policies and procedures of this section.

(b) Government personnel shall report suspected fraud related to advance, partial, or progress payments in accordance with agency regulations.

32.006-4 Procedures.

(a) In any case in which an agency’s remedy coordination official finds substantial evidence that a contractor’s request for advance, partial, or progress payments under a contract awarded by that agency is based on fraud, the remedy coordination official shall recommend that the agency head reduce or suspend further payments to the contractor. The remedy coordination official shall submit to the agency head a written report setting forth the remedy coordination official’s findings that support each recommendation.

(b) Upon receiving a recommendation from the remedy coordination official under paragraph (a) of this subsection, the agency head shall determine whether substantial evidence exists that the request for payment under a contract is based on fraud.

(c) If the agency head determines that substantial evidence exists, the agency head may reduce or suspend further payments to the contractor under the affected contract(s). Such reduction or suspension shall be reasonably commensurate with the anticipated loss to the Government resulting from the fraud.

(d) In determining whether to reduce or suspend further payment(s), as a minimum, the agency head shall consider—

(1) A recommendation from investigating officers that disclosure of the allegations of fraud to the contractor may compromise an ongoing investigation;

(2) The anticipated loss to the Government as a result of the fraud;

(3) The contractor’s overall financial condition and ability to continue performance if payments are reduced or suspended;

(4) The contractor’s essentiality to the national defense, or to the execution of the agency’s official business; and

(5) Assessment of all documentation concerning the alleged fraud, including documentation submitted by the contractor in its response to the notice required by paragraph (e) of this subsection.

(e) Before making a decision to reduce or suspend further payments, the agency head shall, in accordance with agency procedures—

(1) Notify the contractor in writing of the action proposed by the remedy coordination official and the reasons therefor (such notice must be sufficiently specific to permit the contractor to collect and present evidence addressing the aforesaid reasons); and

(2) Provide the contractor an opportunity to submit information within a reasonable time, in response to the action proposed by the remedy coordination official.

(f) When more than one agency has contracts affected by the fraud, the agencies shall consider designating one agency as the lead agency for making the determination and decision.

(g) The agency shall retain in its files the written justification for each—

(1) Decision of the agency head whether to reduce or suspend further payments; and

(2) Recommendation received by an agency head in connection with such decision.

(h) Not later than 180 calendar days after the date of the reduction or suspension action, the remedy coordination official shall—

(1) Review the agency head’s determination on which the reduction or suspension decision is based; and

(2) Transmit a recommendation to the agency head as to whether the reduction or suspension should continue.

32.006-5 Reporting.

(a) In accordance with [41 U.S.C. 255](#), the head of an agency, other than the Department of Defense, shall prepare a report for each fiscal year in which a recommendation has been received pursuant to [32.006-4\(a\)](#). Reports within the Department of Defense shall be prepared in accordance with [10 U.S.C. 2307](#).

(b) In accordance with [41 U.S.C. 255](#) and [10 U.S.C. 2307](#), each report shall contain—

(1) Each recommendation made by the remedy coordination official;

(2) The actions taken on the recommendation(s), with reasons for such actions; and

(3) An assessment of the effects of each action on the Government.

32.007 Contract financing payments.

(a)(1) Unless otherwise prescribed in agency policies and procedures or otherwise specified in paragraph (b) of this section, the due date for making contract financing payments by the designated payment office is the 30th day after the designated billing office receives a proper contract financing request.

(2) If an audit or other review of a specific financing request is required to ensure compliance with the terms and

conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(3) Agency heads may prescribe shorter periods for payment based on contract pricing or administrative considerations. For example, a shorter period may be justified by an agency if the nature and extent of contract financing arrangements are integrated with agency contract pricing policies.

(4) Agency heads must not prescribe a period shorter than 7 days or longer than 30 days.

(b) For advance payments, loans, or other arrangements that do not involve recurrent submission of contract financing requests, the designated payment office will make payment in accordance with the applicable contract financing terms or as directed by the contracting officer.

(c) A proper contract financing request must comply with the terms and conditions specified by the contract. The contractor must correct any defects in requests submitted in the manner specified in the contract or as directed by the contracting officer.

(d) The designated billing office and designated payment office must annotate each contract financing request with the date their respective offices received the request.

(e) The Government will not pay an interest penalty to the contractor as a result of delayed contract financing payments.

32.008 Notification of overpayment.

If the contractor notifies the contracting officer of a duplicate payment or that the Government has otherwise overpaid, the contracting officer shall follow the procedures at [32.604](#).

32.009 Providing accelerated payments to small business subcontractors.

32.009-1 General.

Pursuant to the policy provided by OMB Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors (and as extended by OMB Memorandum M-13-15, Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors), agencies shall take measures to ensure that prime contractors pay small business subcontractors on an accelerated timetable to the maximum extent practicable, and upon receipt of accelerated payments from the Government. This acceleration does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.

32.009-2 Contract clause.

Insert clause [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors, in all solicitations and contracts.

Subpart 32.1—Non-Commercial Item Purchase Financing

32.100 Scope of subpart.

This subpart provides policies and procedures applicable to contract financing and payment for any purchases other than purchases of commercial items in accordance with [Part 12](#).

32.101 Authority.

The basic authority for the contract financing described in this part is contained in section 305 of the Federal Property and Administrative Services Act of 1949 ([41 U.S.C. 255](#)), section 2307 of the Armed Services Procurement Act ([10 U.S.C. 2307](#)), and Title III of the Defense Production Act of 1950 ([50 U.S.C. App. 2091](#)), as amended.

32.102 Description of contract financing methods.

(a) Advance payments are advances of money by the Government to a prime contractor before, in anticipation of, and for the purpose of complete performance under one or more contracts. They are expected to be liquidated from payments due to the contractor incident to performance of the contracts. Since they are not measured by performance, they differ from partial, progress, or other payments based on the performance or partial performance of a contract. Advance payments may be made to prime contractors for the purpose of making advances to subcontractors.

(b) Progress payments based on costs are made on the basis of costs incurred by the contractor as work progresses under the contract. This form of contract financing does not include—

- (1) Payments based on the percentage or stage of completion accomplished;
- (2) Payments for partial deliveries accepted by the Government;
- (3) Partial payments for a contract termination proposal; or
- (4) Performance-based payments.

(c) Loan guarantees are made by Federal Reserve banks, on behalf of designated guaranteeing agencies, to enable contractors to obtain financing from private sources under contracts for the acquisition of supplies or services for the national defense.

(d) Payments for accepted supplies and services that are only a part of the contract requirements (*i.e.*, partial deliveries) are authorized under [41 U.S.C. 255](#) and [10 U.S.C. 2307](#). In accordance with 5 CFR 1315.4(k), agencies must pay for partial delivery of supplies or partial performance of services unless specifically prohibited by the contract. Although pay-

ments for partial deliveries generally are treated as a method of payment and not as a method of contract financing, using partial delivery payments can assist contractors to participate in contracts without, or with minimal, contract financing. When appropriate, contract statements of work and pricing arrangements must permit acceptance and payment for discrete portions of the work, as soon as accepted (see [32.906\(c\)](#)).

(e)(1) Progress payments based on a percentage or stage of completion are authorized by the statutes cited in [32.101](#).

(2) This type of progress payment may be used as a payment method under agency procedures. Agency procedures must ensure that payments are commensurate with work accomplished, which meets the quality standards established under the contract. Furthermore, progress payments may not exceed 80 percent of the eligible costs of work accomplished on undefinitized contract actions.

(f) Performance-based payments are contract financing payments made on the basis of—

- (1) Performance measured by objective, quantifiable methods;
- (2) Accomplishment of defined events; or
- (3) Other quantifiable measures of results.

32.103 Progress payments under construction contracts.

When satisfactory progress has not been achieved by a contractor during any period for which a progress payment is to be made, a percentage of the progress payment may be retained. Retainage should not be used as a substitute for good contract management, and the contracting officer should not withhold funds without cause. Determinations to retain and the specific amount to be withheld shall be made by the contracting officers on a case-by-case basis. Such decisions will be based on the contracting officer's assessment of past performance and the likelihood that such performance will continue. The amount of retainage withheld shall not exceed 10 percent of the approved estimated amount in accordance with the terms of the contract and may be adjusted as the contract approaches completion to recognize better than expected performance, the ability to rely on alternative safeguards, and other factors. Upon completion of all contract requirements, retained amounts shall be paid promptly.

32.104 Providing contract financing.

(a) Prudent contract financing can be a useful working tool in Government acquisition by expediting the performance of essential contracts. Contracting officers must consider the criteria in this part in determining whether to include contract financing in solicitations and contracts. Resolve reasonable doubts by including contract financing in the solicitation. The contracting officer must—

(1) Provide Government financing only to the extent actually needed for prompt and efficient performance, considering the availability of private financing and the probable impact on working capital of the predelivery expenditures and production lead-times associated with the contract, or groups of contracts or orders (*e.g.*, issued under indefinite-delivery contracts, basic ordering agreements, or their equivalent);

(2) Administer contract financing so as to aid, not impede, the acquisition;

(3) Avoid any undue risk of monetary loss to the Government through the financing;

(4) Include the form of contract financing deemed to be in the Government's best interest in the solicitation (see [32.106](#) and [32.113](#)); and

(5) Monitor the contractor's use of the contract financing provided and the contractor's financial status.

(b) If the contractor is a small business concern, the contracting officer must give special attention to meeting the contractor's contract financing need. However, a contractor's receipt of a certificate of competency from the Small Business Administration has no bearing on the contractor's need for or entitlement to contract financing.

(c) Subject to specific agency regulations and paragraph (d) of this section, the contracting officer—

(1) May provide customary contract financing in accordance with [32.113](#); and

(2) Must not provide unusual contract financing except as authorized in [32.114](#).

(d) Unless otherwise authorized by agency procedures, the contracting officer may provide contract financing in the form of performance-based payments (see [Subpart 32.10](#)) or customary progress payments (see [Subpart 32.5](#)) if the following conditions are met:

(1) The contractor—

(i) Will not be able to bill for the first delivery of products for a substantial time after work must begin (normally 4 months or more for small business concerns, and 6 months or more for others), and will make expenditures for contract performance during the predelivery period that have a significant impact on the contractor's working capital; or

(ii) Demonstrates actual financial need or the unavailability of private financing.

(2) If the contractor is not a small business concern—

(i) For an individual contract, the contract price is \$2.5 million or more; or

(ii) For an indefinite-delivery contract, a basic ordering agreement or a similar ordering instrument, the contracting officer expects the aggregate value of orders or contracts that individually exceed the simplified acquisition threshold to have a total value of \$2.5 million or more. The contracting officer must limit financing to those orders or contracts that exceed the simplified acquisition threshold.

(3) If the contractor is a small business concern—

(i) For an individual contract, the contract price exceeds the simplified acquisition threshold; or

(ii) For an indefinite-delivery contract, a basic ordering agreement or a similar ordering instrument, the contracting officer expects the aggregate value of orders or contracts to exceed the simplified acquisition threshold.

32.105 Uses of contract financing.

(a) Contract financing methods covered in this part are intended to be self-liquidating through contract performance. Consequently, agencies shall only use the methods for financing of contractor working capital, not for the expansion of contractor-owned facilities or the acquisition of fixed assets. However, under loan guarantees, exceptions may be made for—

(1) Facilities expansion of a minor or incidental nature, if a relatively small part of the guaranteed loan is used for the expansion and the contractor's repayment would not be delayed or impaired; or

(2) Other instances of facilities expansion for which contract financing is appropriate under agency procedures.

(b) The limitations in this section do not apply to contracts under which facilities are being acquired for Government ownership.

32.106 Order of preference.

The contracting officer must consider the following order of preference when a contractor requests contract financing, unless an exception would be in the Government's best interest in a specific case:

(a) Private financing without Government guarantee. It is not intended, however, that the contracting officer require the contractor to obtain private financing—

(1) At unreasonable terms; or

(2) From other agencies.

(b) Customary contract financing other than loan guarantees and certain advance payments (see [32.113](#)).

(c) Loan guarantees.

(d) Unusual contract financing (see [32.114](#)).

(e) Advance payments (see exceptions in [32.402\(b\)](#)).

32.107 Need for contract financing not a deterrent.

(a) If the contractor or offeror meets the standards prescribed for responsible prospective contractors at [9.104](#), the contracting officer shall not treat the contractor's need for contract financing as a handicap for a contract award; *e.g.*, as a responsibility factor or evaluation criterion.

(b) The contractor should not be disqualified from contract financing solely because the contractor failed to indicate a need for contract financing before the contract was awarded.

32.108 Financial consultation.

Each contracting office should have available and use the services of contract financing personnel competent to evaluate credit and financial problems. In resolving any questions concerning—

(a) The financial capability of an offeror or contractor to perform a contract, or

(b) What form of contract financing is appropriate in a given case, the contracting officer should consult the appropriate contract financing office.

32.109 Termination financing.

To encourage contractors to invest their own funds in performance despite the susceptibility of the contract to termination for the convenience of the Government, the contract financing procedures under this part may be applied to the financing of terminations either in connection with or independently of financing for contract performance (see [49.112-1](#)).

32.110 Payment of subcontractors under cost-reimbursement prime contracts.

If the contractor makes financing payments to a subcontractor under a cost-reimbursement prime contract, the contracting officer should accept the financing payments as reimbursable costs of the prime contract only under the following conditions:

(a) The payments are made under the criteria in [Subpart 32.5](#) for customary progress payments based on costs, [32.202-1](#) for commercial item purchase financing, or [32.1003](#) for performance-based payments, as applicable.

(b) If customary progress payments are made, the payments do not exceed the progress payment rate in [32.501-1](#), unless unusual progress payments to the subcontractor have been approved in accordance with [32.501-2](#).

(c) If customary progress payments are made, the subcontractor complies with the liquidation principles of [32.503-8](#), [32.503-9](#), and [32.503-10](#).

(d) If performance-based payments are made, the subcontractor complies with the liquidation principles of [32.1004\(d\)](#).

(e) The subcontract contains financing payments terms as prescribed in this part.

32.111 Contract clauses for non-commercial purchases.

(a) The contracting officer shall insert the following clauses, appropriately modified with respect to payment due dates, in accordance with agency regulations—

(1) The clause at [52.232-1](#), Payments, in solicitations and contracts when a fixed-price supply contract, a fixed-price service contract, or a contract for nonregulated communication services is contemplated;

(2) The clause at [52.232-2](#), Payment under Fixed-Price Research and Development Contracts, in solicitations and

contracts when a fixed-price research and development contract is contemplated;

(3) The clause at [52.232-3](#), Payments under Personal Services Contracts, in solicitations and contracts for personal services;

(4) The clause at [52.232-4](#), Payments under Transportation Contracts and Transportation-Related Services Contracts, in solicitations and contracts for transportation or transportation-related services;

(5) The clause at [52.232-5](#), Payments under Fixed-Price Construction Contracts, in solicitations and contracts for construction when a fixed-price contract is contemplated;

(6) The clause at [52.232-6](#), Payments under Communication Service Contracts with Common Carriers, in solicitations and contracts for regulated communication services by common carriers; and

(7) The clause at [52.232-7](#), Payments under Time-and-Materials and Labor-Hour Contracts, in solicitations and contracts when a time-and-materials or labor-hour contract is contemplated. If the contracting officer determines that it is necessary to withhold payment to protect the Government's interests, paragraph (a)(7) of the clause permits the contracting officer to unilaterally issue a modification requiring the contractor to withhold 5 percent of amounts due, up to a maximum of \$50,000 under the contract. The contracting officer shall ensure that the modification specifies the percentage and total amount of the withhold payment. Normally, there should be no need to withhold payment for a contractor with a record of timely submittal of the release discharging the Government from all liabilities, obligations, and claims, as required by paragraph (g) of the clause.

(b) The contracting officer shall insert the following clauses, appropriately modified with respect to payment due dates in accordance with agency regulations:

(1) The clause at [52.232-8](#), Discounts for Prompt Payment, in solicitations and contracts when a fixed-price supply contract or fixed-price service contract is contemplated.

(2) A clause, substantially the same as the clause at [52.232-9](#), Limitation on Withholding of Payments, in solicitations and contracts when a supply contract, research and development contract, service contract, time-and-materials contract, or labor-hour contract is contemplated that includes two or more terms authorizing the temporary withholding of amounts otherwise payable to the contractor for supplies delivered or services performed.

(c) The contracting officer shall insert the following clauses, appropriately modified with respect to payments due dates in accordance with agency regulations:

(1) The clause at [52.232-10](#), Payments under Fixed-Price Architect-Engineer Contracts, in fixed-price architect-engineer contracts.

(2) The clause at [52.232-11](#), Extras, in solicitations and contracts when a fixed-price supply contract, fixed-price service contract, or a transportation contract is contemplated.

32.112 Nonpayment of subcontractors under contracts for noncommercial items.

32.112-1 Subcontractor assertions of nonpayment.

(a) In accordance with Section 806(a)(4) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, upon the assertion by a subcontractor or supplier of a Federal contractor that the subcontractor or supplier has not been paid in accordance with the payment terms of the subcontract, purchase order, or other agreement with the prime contractor, the contracting officer may determine—

(1) For a construction contract, whether the contractor has made—

(i) Progress payments to the subcontractor or supplier in compliance with Chapter 39 of Title 31, United States Code (Prompt Payment Act); or

(ii) Final payment to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor;

(2) For a contract other than construction, whether the contractor has made progress payments, final payments, or other payments to the subcontractor or supplier in compliance with the terms of the subcontract, purchase order, or other agreement with the prime contractor; or

(3) For any contract, whether the contractor's certification of payment of a subcontractor or supplier accompanying its payment request to the Government is accurate.

(b) If, in making the determination in paragraphs (a)(1) and (2) of this subsection, the contracting officer finds the prime contractor is not in compliance, the contracting officer may—

(1) Encourage the contractor to make timely payment to the subcontractor or supplier; or

(2) If authorized by the applicable payment clauses, reduce or suspend progress payments to the contractor.

(c) If the contracting officer determines that a certification referred to in paragraph (a)(3) of this subsection is inaccurate in any material respect, the contracting officer shall initiate administrative or other remedial action.

32.112-2 Subcontractor requests for information.

(a) In accordance with Section 806(a)(1) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, upon the request of a subcontractor or supplier under a Federal contract for a non-commercial item, the contracting officer shall promptly advise the subcontractor or supplier as to—

(1) Whether the prime contractor has submitted requests for progress payments or other payments to the Federal Government under the contract; and

(2) Whether final payment under the contract has been made by the Federal Government to the prime contractor.

(b) In accordance with [5 U.S.C. 552\(b\)\(1\)](#), this subsection does not apply to matters that are—

(1) Specifically authorized under criteria established by an Executive order to be kept classified in the interest of national defense or foreign policy; and

(2) Properly classified pursuant to such Executive order.

32.113 Customary contract financing.

The solicitation must specify the customary contract financing offerors may propose. The following are customary contract financing when provided in accordance with this part and agency regulations:

(a) Financing of shipbuilding, or ship conversion, alteration, or repair, when agency regulations provide for progress payments based on a percentage or stage of completion.

(b) Financing of construction or architect-engineer services purchased under the authority of [Part 36](#).

(c) Financing of contracts for supplies or services awarded under the sealed bid method of procurement in accordance with [Part 14](#) through progress payments based on costs in accordance with [Subpart 32.5](#).

(d) Financing of contracts for supplies or services awarded under the competitive negotiation method of procurement in

accordance with [Part 15](#), through either progress payments based on costs in accordance with [Subpart 32.5](#), or performance-based payments in accordance with [Subpart 32.10](#) (but not both).

(e) Financing of contracts for supplies or services awarded under a sole-source acquisition as defined in [2.101](#) and using the procedures of [Part 15](#), through either progress payments based on costs in accordance with [Subpart 32.5](#), or performance-based payments in accordance with [Subpart 32.10](#) (but not both).

(f) Financing of contracts for supplies or services through advance payments in accordance with [Subpart 32.4](#).

(g) Financing of contracts for supplies or services through guaranteed loans in accordance with [Subpart 32.3](#).

(h) Financing of contracts for supplies or services through any appropriate combination of advance payments, guaranteed loans, and either performance-based payments or progress payments (but not both) in accordance with their respective subparts.

32.114 Unusual contract financing.

Any contract financing arrangement that deviates from this part is unusual contract financing. Unusual contract financing shall be authorized only after approval by the head of the agency or as provided for in agency regulations.

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- 52.223-17 Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.
- 52.223-18 Encouraging Contractor Policies to Ban Text Messaging While Driving.
- 52.223-19 Compliance with Environmental Management Systems.
- 52.224-1 Privacy Act Notification.
- 52.224-2 Privacy Act.
- 52.225-1 Buy American Act—Supplies.
- 52.225-2 Buy American Act Certificate.
- 52.225-3 Buy American Act—Free Trade Agreements—Israeli Trade Act.
- 52.225-4 Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.
- 52.225-5 Trade Agreements.
- 52.225-6 Trade Agreements Certificate.
- 52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles.
- 52.225-8 Duty-Free Entry.
- 52.225-9 Buy American Act—Construction Materials.
- 52.225-10 Notice of Buy American Act Requirement—Construction Materials.
- 52.225-11 Buy American Act—Construction Materials under Trade Agreements.
- 52.225-12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.
- 52.225-13 Restrictions on Certain Foreign Purchases.
- 52.225-14 Inconsistency between English Version and Translation of Contract.
- 52.225-15 [Reserved]
- 52.225-16 [Reserved]
- 52.225-17 Evaluation of Foreign Currency Offers.
- 52.225-18 Place of Manufacture.
- 52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.
- 52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan—Certification.
- 52.225-21 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials.
- 52.225-22 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials.
- 52.225-23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.
- 52.225-24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements.
- 52.225-25 Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications.
- 52.225-26 Contractors Performing Private Security Functions Outside the United States.
- 52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.
- 52.226-2 Historically Black College or University and Minority Institution Representation.
- 52.226-3 Disaster or Emergency Area Representation.
- 52.226-4 Notice of Disaster or Emergency Area Set-Aside.
- 52.226-5 Restrictions on Subcontracting Outside Disaster or Emergency Area.
- 52.226-6 Promoting Excess Food Donation to Nonprofit Organizations.
- 52.227-1 Authorization and Consent.
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.
- 52.227-3 Patent Indemnity.
- 52.227-4 Patent Indemnity—Construction Contracts.
- 52.227-5 Waiver of Indemnity.
- 52.227-6 Royalty Information.
- 52.227-7 Patents—Notice of Government Licensee.
- 52.227-8 [Reserved]
- 52.227-9 Refund of Royalties.
- 52.227-10 Filing of Patent Applications—Classified Subject Matter.
- 52.227-11 Patent Rights—Ownership by the Contractor.
- 52.227-12 [Reserved]
- 52.227-13 Patent Rights—Ownership by the Government.
- 52.227-14 Rights in Data—General.
- 52.227-15 Representation of Limited Rights Data and Restricted Computer Software.
- 52.227-16 Additional Data Requirements.
- 52.227-17 Rights in Data—Special Works.
- 52.227-18 Rights in Data—Existing Works.
- 52.227-19 Commercial Computer Software License.
- 52.227-20 Rights in Data—SBIR Program.
- 52.227-21 Technical Data Declaration, Revision, and Withholding of Payment—Major Systems.
- 52.227-22 Major System—Minimum Rights.
- 52.227-23 Rights to Proposal Data (Technical).
- 52.228-1 Bid Guarantee.
- 52.228-2 Additional Bond Security.
- 52.228-3 Workers' Compensation Insurance (Defense Base Act).
- 52.228-4 Workers' Compensation and War-Hazard Insurance Overseas.
- 52.228-5 Insurance—Work on a Government Installation.
- 52.228-6 [Reserved]
- 52.228-7 Insurance—Liability to Third Persons.
- 52.228-8 Liability and Insurance—Leased Motor Vehicles.

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- 52.228-9 Cargo Insurance.
 - 52.228-10 Vehicular and General Public Liability Insurance.
 - 52.228-11 Pledges of Assets.
 - 52.228-12 Prospective Subcontractor Requests for Bonds.
 - 52.228-13 Alternative Payment Protections.
 - 52.228-14 Irrevocable Letter of Credit.
 - 52.228-15 Performance and Payment Bonds—Construction.
 - 52.228-16 Performance and Payment Bonds—Other Than Construction.
 - 52.229-1 State and Local Taxes.
 - 52.229-2 North Carolina State and Local Sales and Use Tax.
 - 52.229-3 Federal, State, and Local Taxes.
 - 52.229-4 Federal, State, and Local Taxes (State and Local Adjustments).
 - 52.229-5 [Reserved]
 - 52.229-6 Taxes—Foreign Fixed-Price Contracts.
 - 52.229-7 Taxes—Fixed-Price Contracts with Foreign Governments.
 - 52.229-8 Taxes—Foreign Cost-Reimbursement Contracts.
 - 52.229-9 Taxes—Cost-Reimbursement Contracts with Foreign Governments.
 - 52.229-10 State of New Mexico Gross Receipts and Compensating Tax.
 - 52.230-1 Cost Accounting Standards Notices and Certification.
 - 52.230-2 Cost Accounting Standards.
 - 52.230-3 Disclosure and Consistency of Cost Accounting Practices.
 - 52.230-4 Disclosure and Consistency of Cost Accounting Practices—Foreign Concerns.
 - 52.230-5 Cost Accounting Standards—Educational Institution.
 - 52.230-6 Administration of Cost Accounting Standards.
 - 52.230-7 Proposal Disclosure—Cost Accounting Practice Changes.
 - 52.231 [Reserved]
 - 52.232-1 Payments.
 - 52.232-2 Payments under Fixed-Price Research and Development Contracts.
 - 52.232-3 Payments under Personal Services Contracts.
 - 52.232-4 Payments under Transportation Contracts and Transportation-Related Services Contracts.
 - 52.232-5 Payments under Fixed-Price Construction Contracts.
 - 52.232-6 Payment under Communication Service Contracts with Common Carriers.
 - 52.232-7 Payments under Time-and-Materials and Labor-Hour Contracts.
 - 52.232-8 Discounts for Prompt Payment.
 - 52.232-9 Limitation on Withholding of Payments.
 - 52.232-10 Payments under Fixed-Price Architect-Engineer Contracts.
 - 52.232-11 Extras.
 - 52.232-12 Advance Payments.
 - 52.232-13 Notice of Progress Payments.
 - 52.232-14 Notice of Availability of Progress Payments Exclusively for Small Business Concerns.
 - 52.232-15 Progress Payments Not Included.
 - 52.232-16 Progress Payments.
 - 52.232-17 Interest.
 - 52.232-18 Availability of Funds.
 - 52.232-19 Availability of Funds for the Next Fiscal Year.
 - 52.232-20 Limitation of Cost.
 - 52.232-21 [Reserved]
 - 52.232-22 Limitation of Funds.
 - 52.232-23 Assignment of Claims.
 - 52.232-24 Prohibition of Assignment of Claims.
 - 52.232-25 Prompt Payment.
 - 52.232-26 Prompt Payment for Fixed-Price Architect-Engineer Contracts.
 - 52.232-27 Prompt Payment for Construction Contracts.
 - 52.232-28 Invitation to Propose Performance-Based Payments.
 - 52.232-29 Terms for Financing of Purchases of Commercial Items.
 - 52.232-30 Installment Payments for Commercial Items.
 - 52.232-31 Invitation to Propose Financing Terms.
 - 52.232-32 Performance-Based Payments.
 - 52.232-33 Payment by Electronic Funds Transfer-System for Award Management.
 - 52.232-34 Payment by Electronic Funds Transfer-Other than System for Award Management.
 - 52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.
 - 52.232-36 Payment by Third Party.
 - 52.232-37 Multiple Payment Arrangements.
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 - 52.232-39 Unenforceability of Unauthorized Obligations.
 - 52.232-40 Providing Accelerated Payments to Small Business Subcontractors.
 - 52.233-1 Disputes.
 - 52.233-2 Service of Protest.
 - 52.233-3 Protest after Award.
 - 52.233-4 Applicable Law for Breach of Contract Claim.
 - 52.234-1 Industrial Resources Developed Under Defense Production Act Title III.
 - 52.234-2 Notice of Earned Value Management System - Pre-Award IBR.
 - 52.234-3 Notice of Earned Value Management System - Post Award IBR.
 - 52.234-4 Earned Value Management System.
 - 52.235 [Reserved]
 - 52.236-1 Performance of Work by the Contractor.
 - 52.236-2 Differing Site Conditions.

52.236-3	Site Investigation and Conditions Affecting the Work.	52.241-4	Change in Class of Service.
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52.236-14	Availability and Use of Utility Services.	52.242-2	Production Progress Reports.
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52.236-20	[Reserved]	52.242-8	[Reserved]
52.236-21	Specifications and Drawings for Construction.	52.242-9	[Reserved]
52.236-22	Design Within Funding Limitations.	52.242-10	[Reserved]
52.236-23	Responsibility of the Architect-Engineer Contractor.	52.242-11	[Reserved]
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|---|---|
- Subpart 52.3—Provision and Clause Matrix**
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| <p>52.300 Scope of subpart.</p> <p>52.301 Solicitation provisions and contract clauses (Matrix).</p> |
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and notify the Contracting Officer immediately, giving your quotation.

(End of clause)

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

As prescribed in [13.302-5\(d\)](#), insert the following clause:

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS
(OTHER THAN COMMERCIAL ITEMS) (DEC 2013)

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

(ii) [52.222-21](#), Prohibition of Segregated Facilities (FEB 1999) (E.O. 11246).

(iii) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

(iv) [52.222-50](#), Combating Trafficking in Persons (FEB 2009) ([22 U.S.C. 7104\(g\)](#)).

(v) [52.225-13](#), Restrictions on Certain Foreign Purchases (JUNE 2008) (E.o.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

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

(vii) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(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 (JUL 2013).

(v) [52.232-39](#), Unenforceability of Unauthorized Obligations (JUN 2013).

(vi) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)

(vii) [52.233-1](#), Disputes (JULY 2002).

(viii) [52.244-6](#), Subcontracts for Commercial Items (JUL 2013).

(ix) [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) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUL 2013) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)) (Applies to contracts valued at \$25,000 or more).

(ii) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (NOV 2013) (E.O. 13126). (Applies to contracts for supplies exceeding the micro-purchase threshold.)

(iii) [52.222-20](#), Walsh-Healey Public Contracts Act (Oct 2010) ([41 U.S.C. 35-45](#)) (Applies to supply contracts over \$15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).

(iv) [52.222-35](#), Equal Opportunity for Veterans (SEP 2010) ([38 U.S.C. 4212](#)) (applies to contracts of \$100,000 or more).

(v) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)). (Applies to contracts over \$15,000, 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.)

(vi) [52.222-37](#), Employment Reports on Veterans (SEP 2010) ([38 U.S.C. 4212](#)) (applies to contracts of \$100,000 or more).

(vii) [52.222-41](#), Service Contract Act of 1965 (NOV 2007) ([41 U.S.C. 351](#), *et seq.*) (Applies to service contracts over \$2,500 that are subject to the Service Contract Act 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 lands.)

(viii) [52.223-5](#), Pollution Prevention and Right-to-Know Information (MAY 2011) (E.O. 13423) (Applies to services performed on Federal facilities).

(ix) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (DEC 2007) ([42 U.S.C. 8259b](#)) (Unless exempt pursuant to [23.204](#), applies to contracts when energy-

consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP) will be—

(A) Delivered;

(B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(C) Furnished by the Contractor for use by the Government; or

(D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.)

(x) [52.225-1](#), Buy American Act—Supplies (FEB 2009) ([41 U.S.C. 10a-10d](#)) (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 and the acquisition—

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

(B) Cannot be set aside for small business concerns (see [19.502-2](#)), and does not exceed \$25,000).

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

(xii) [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.)

(xiii) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C. App. 1241](#)). (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at [47.504\(d\)](#).)

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

(i) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (AUG 2013) (Applies to contracts over \$30,000).

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

(iii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009) (Pub. L. 110-247) (Applies to contracts greater than \$25,000 that provide for the provision, the service, or the sale of food in the United States.)

(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 (NOV 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 Con-
trac-

tor 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.

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SUBMISSION OF ELECTRONIC FUNDS TRANSFER
INFORMATION WITH OFFER (JUL 2013)

The offeror shall provide, with its offer, the following information that is required to make payment by electronic funds transfer (EFT) under any contract that results from this solicitation. This submission satisfies the requirement to provide EFT information under paragraphs (b)(1) and (j) of the clause at [52.232-34](#), Payment by Electronic Funds Transfer—Other than System for Award Management.

- (1) The solicitation number (or other procurement identification number).
- (2) The offeror’s name and remittance address, as stated in the offer.
- (3) The signature (manual or electronic, as appropriate), title, and telephone number of the offeror’s official authorized to provide this information.
- (4) The name, address, and 9-digit Routing Transit Number of the offeror’s financial agent.
- (5) The offeror’s account number and the type of account (checking, savings, or lockbox).
- (6) If applicable, the Fedwire Transfer System telegraphic abbreviation of the offeror’s financial agent.
- (7) If applicable, the offeror shall also provide the name, address, telegraphic abbreviation, and 9-digit Routing Transit Number of the correspondent financial institution receiving the wire transfer payment if the offeror’s financial agent is not directly on-line to the Fedwire and, therefore, not the receiver of the wire transfer payment.

(End of provision)

52.232-39 Unenforceability of Unauthorized Obligations.

As prescribed in [32.706-3](#), insert the following clause:

UNENFORCEABILITY OF UNAUTHORIZED OBLIGATIONS
(JUN 2013)

(a) Except as stated in paragraph (b) of this clause, when any supply or service acquired under this contract is subject to any End User License Agreement (EULA), Terms of Service (TOS), or similar legal instrument or agreement, that includes any clause requiring the Government to indemnify the Contractor or any person or entity for damages, costs, fees, or any other loss or liability that would create an Anti-Defi-

ciency Act violation (31 U.S.C. 1341), the following shall govern:

- (1) Any such clause is unenforceable against the Government.
- (2) Neither the Government nor any Government authorized end user shall be deemed to have agreed to such clause by virtue of it appearing in the EULA, TOS, or similar legal instrument or agreement. If the EULA, TOS, or similar legal instrument or agreement is invoked through an “I agree” click box or other comparable mechanism (*e.g.*, “click-wrap” or “browse-wrap” agreements), execution does not bind the Government or any Government authorized end user to such clause.
- (3) Any such clause is deemed to be stricken from the EULA, TOS, or similar legal instrument or agreement.
- (b) Paragraph (a) of this clause does not apply to indemnification by the Government that is expressly authorized by statute and specifically authorized under applicable agency regulations and procedures.

(End of clause)

52.232-40 Providing Accelerated Payments to Small Business Subcontractors.

As prescribed in [32.009-2](#), insert the following clause:

PROVIDING ACCELERATED PAYMENTS TO SMALL
BUSINESS SUBCONTRACTORS (DEC 2013)

- (a) Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor.
- (b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.
- (c) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of clause)

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52.244-1 [Reserved]**52.244-2 Subcontracts.**

As prescribed in [44.204\(a\)\(1\)](#), insert the following clause:

SUBCONTRACTS (OCT 2010)

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

“Approved purchasing system” means a Contractor’s purchasing system that has been reviewed and approved in accordance with [Part 44](#) of the Federal Acquisition Regulation (FAR).

“Consent to subcontract” means the Contracting Officer’s written consent for the Contractor to enter into a particular subcontract.

“Subcontract” means any contract, as defined in FAR [Subpart 2.1](#), entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer’s written consent before placing the following subcontracts:

(e)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor’s current, complete, and accurate certified cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor’s Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason certified cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor’s certified cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor’s certified cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor’s price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (b), (c), or (d) of this clause.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor’s purchasing system shall constitute a determination—

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR [15.404-4\(c\)\(4\)\(i\)](#).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR [Subpart 44.3](#).

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(End of clause)

Alternate I (June 2007). As prescribed in [44.204\(a\)\(2\)](#), substitute the following paragraph (e)(2) for paragraph (e)(2) of the basic clause:

(e)(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), or (d) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (e)(1)(i) through (e)(1)(iv) of this clause.

52.244-3 [Reserved]

52.244-4 Subcontractors and Outside Associates and Consultants (Architect-Engineer Services).

As prescribed in [44.204\(b\)](#), insert the following clause:

SUBCONTRACTORS AND OUTSIDE ASSOCIATES AND
 CONSULTANTS (ARCHITECT-ENGINEER SERVICES)
 (AUG 1998)

Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to individuals or firms that were specifically identified and agreed to during negotiations. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these subcontractors, associates, or consultants.

(End of clause)

52.244-5 Competition in Subcontracting.

As prescribed in [44.204\(c\)](#), insert the following clause:

COMPETITION IN SUBCONTRACTING (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical

extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protégé Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its protégés.

(End of clause)

52.244-6 Subcontracts for Commercial Items.

As prescribed in [44.403](#), insert the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2013)

(a) *Definitions.* As used in this clause—
 "Commercial item" has the meaning contained in Federal Acquisition Regulation [2.101](#), Definitions.

"Subcontract" includes a transfer of commercial items 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 items or nondevelopmental items as components of items to be supplied under this contract.

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

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (APR 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))), if the subcontract exceeds \$5,000,000 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) [52.219-8](#), Utilization of Small Business Concerns (JUL 2013) ([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 \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iv) [52.222-26](#), Equal Opportunity (MAR 2007) (E.O. 11246).

(v) [52.222-35](#), Equal Opportunity for Veterans (SEP 2010) ([38 U.S.C. 4212\(a\)](#));

(vi) [52.222-36](#), Affirmative Action for Workers with Disabilities (OCT 2010) ([29 U.S.C. 793](#)).

(vii) [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](#).

(viii) [52.222-50](#), Combating Trafficking in Persons (FEB 2009) ([22 U.S.C. 7104\(g\)](#)).

(ix) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (JUL 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; [10 U.S.C. 2302 Note](#)).

(x) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (DEC 2013), if flow down is required in accordance with paragraph (c) of FAR clause [52.232-40](#).

(xi) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) ([46 U.S.C.](#)

[App. 1241](#) 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 items 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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PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI	
																								PRINCIPLE TYPE AND/OR PURPOSE OF CONTRACT
52.232-30 Installment Payments for Commercial Items.	32.206(g)	C	Yes	I	A				A														A	
52.232-31 Invitation to Propose Financing Terms.	32.205(b) 32.206	P	No	L	A				A															
52.232-32 Performance-Based Payments.	32.1005	C	No	I	A				A															
52.232-33 Payment by Electronic Funds Transfer—System for Award Management.	32.1110(a)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-34 Payment by Electronic Funds Transfer—Other than System for Award Management.	32.1110(a)(2)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information.	32.1110(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-36 Payment by Third Party.	32.1110(d) and (e)(3)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-37 Multiple Payment Arrangements.	32.1110(e)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-38 Submission of Electronic Funds Transfer Information with Offer.	32.1110(g)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.232-39 Unenforceability of Unauthorized Obligations.	32.706-3	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.232-40 Providing Accelerated Payments to Small Business Subcontractors✓	32.009-2	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.233-1 Disputes.	33.215	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate 1	33.215	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.233-2 Service of Protest.	33.106(a)	P	No	L	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.233-3 Protest after Award.	33.106(b)	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
Alternate 1	33.106(b)	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.233-4 Applicable Law for Breach of Contract Claim.	33.215(b)	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
52.234-1 Industrial Resources Developed Under Defense Production Act Title III.	34.104	C	N	I	A	A	A	A																
52.234-2 Notice of Earned Value Management System - Pre-Award IBR.	34.203(a)	P	N	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.234-3 Notice of Earned Value Management System - Post Award IBR.	34.203(b)	P	N	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.234-4 Earned Value Management System.	34.203(c)	C	Y	H	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.236-1 Performance of Work by the Contractor.	36.501(b)	C	Yes								A												
52.236-2 Differing Site Conditions.	36.502	C	Yes								A					A						O	
52.236-3 Site Investigation and Conditions Affecting the Work.	36.503	C	Yes								A					A						O	
52.236-4 Physical Data.	36.504	C	No								A											A	
52.236-5 Material and Workmanship.	36.505	C	Yes								R	R										A	
52.236-6 Superintendence by the Contractor.	36.506	C	Yes								A					A						O	
52.236-7 Permits and Responsibilities.	36.507	C	Yes								R	R				A						A	
52.236-8 Other Contracts.	36.508	C	Yes								A					A						O	
52.236-9 Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements.	36.509	C	Yes								A					A						O	
52.236-10 Operations and Storage Areas.	36.510	C	Yes								A					A						O	
52.236-11 Use and Possession Prior to Completion.	36.511	C	Yes								A											O	
52.236-12 Cleaning Up.	36.512	C	Yes								A					A						O	
52.236-13 Accident Prevention.	36.513	C	Yes								A					A						O	
Alternate I	36.513	C	Yes								A					A						O	
52.236-14 Availability and Use of Utility Services.	36.514	C	Yes								A					A						A	
52.236-15 Schedules for Construction Contracts.	36.515	C	Yes								O												
52.236-16 Quantity Surveys.	36.516	C	Yes								O											O	
Alternate I	36.516	C	Yes								O												
52.236-17 Layout of Work.	36.517	C	Yes								A											A	
52.236-18 Work Oversight in Cost-Reimbursement Construction Contracts.	36.518	C	Yes																				
52.236-19 Organization and Direction of the Work.	36.519	C	Yes																				
52.236-21 Specifications and Drawings for Construction.	36.521	C	Yes								A					A						O	
Alternate I	36.521	C	Yes								A					A						O	
Alternate II	36.521	C	Yes								A					A						O	
52.236-22 Design Within Funding Limitations.	36.609-1(c)	C	Yes																		A	O	
52.236-23 Responsibility of the Architect-Engineer Contractor.	36.609-2(b)	C	Yes																		A		