

**52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO  
IMPLEMENT STATUTES OR EXECUTIVE  
ORDERS—COMMERCIAL ITEMS (DEC 2007)**

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

(1) 52.233-3, Protest After Award (AUG 1996) (31 U.S.C. 3553).

(2) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

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

<b>Number</b>	<b>Title</b>	<b>Clause/Provision</b>
52.203-6	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I -- OCT 1995)	Clause
52.219-14	LIMITATIONS ON SUBCONTRACTING (DEC 1996)	Clause
52.219-16	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN (JAN 1999)	Clause
52.219-6	NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (JUN 2003)	Clause
52.219-8	UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)	Clause
52.219-9	SMALL BUSINESS SUBCONTRACTING PLAN (NOV 2007)	Clause
52.222-19	CHILD LABOR--COOPERATION WITH AUTHORITIES AND REMEDIES (AUG 2007)	Clause
52.222-21	PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)	Clause
52.222-26	EQUAL OPPORTUNITY (MAR 2007)	Clause
52.222-3	CONVICT LABOR (JUN 2003)	Clause
52.222-35	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)	Clause
52.222-36	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998)	Clause
52.222-37	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)	Clause
52.222-39	NOTIFICATION OF EMPLOYEE RIGHTS CONCERNING PAYMENT OF UNION DUES OR FEES (DEC 2004)	Clause
52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (FEB 2006)	Clause
52.225-5	TRADE AGREEMENTS (NOV 2007)	Clause
52.232-33	PAYMENT BY ELECTRONIC FUNDS TRANSFER -- CENTRAL CONTRACTOR REGISTRATION (OCT 2003)	Clause
52.232-34	PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)	Clause
52.239-1	PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)	Clause
52.247-64	PREFERENCE FOR PRIVATELY OWNED U.S.--FLAG COMMERCIAL VESSELS (FEB 2006) (ALTERNATE I -- APR 2003)	Clause

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

Number	Title	Clause/Provision
52.222-41	SERVICE CONTRACT ACT OF 1965 (NOV 2007)	Clause
52.222-42	STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)	Clause
52.222-43	FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT -- PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (NOV 2006)	Clause

(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, 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 paragraphs (i) through (vi) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (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 \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212).

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(v) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201).

(vi) 52.222-41, Service Contract Act of 1965 (NOV 2007) (41 U.S.C. 351, et seq.).

(vii) 52.222-50, Combating Trafficking in Persons (AUG 2007) (22 U.S.C. 7104(g)). Flow down required in accordance with paragraph (f) of FAR clause 52.222-50.

(viii) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment--Requirements (NOV 2007) (41 U.S.C. 351, et seq.).

(ix) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services--Requirements (NOV 2007) (41 U.S.C. 351, et seq.).

(x) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx 1241(b) 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 items a minimal number of additional clauses necessary to satisfy its contractual obligations.