## 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS – COMMERCIAL ITEMS (JAN 2017) (ALTERNATE II – JAN 2017)

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

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

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

(4) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

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

| Number | Title | Clause/Provision |
|---|---|---|
| 52.203-13 | CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (OCT 2015) | Clause |
| 52.203-6 | RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006) (ALTERNATE I - OCT 1995) | Clause |
| 52.204-10 | REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (OCT 2016) | Clause |
| 52.204-14 | SERVICE CONTRACT REPORTING REQUIREMENTS (OCT 2016) | Clause |
| 52.204-15 | SERVICE CONTRACT REPORTING REQUIREMENTS FOR INDEFINITE-DELIVERY CONTRACTS (JAN 2014) | Clause |
| 52.209-6 | PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (OCT 2015) | Clause |
| 52.219-13 | NOTICE OF SET-ASIDE OF ORDERS (NOV 2011) | Clause |
| 52.219-14 | LIMITATIONS ON SUBCONTRACTING (JAN 2017) | Clause |
| 52.219-16 | LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999) | Clause |
| 52.219-27 | NOTICE OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS SET-ASIDE (NOV 2011) | Clause |

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| 52.219-28 | POST-AWARD SMALL BUSINESS PROGRAM REREPRESENTATION (JUL 2013) | Clause |
| 52.219-29 | NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, ECONOMICALLY DISADVANTAGED WOMEN-OWNED SMALL BUSINESS CONCERNS (DEC 2015) | Clause |
| 52.219-3 | NOTICE OF TOTAL HUBZONE SET-ASIDE OR SOLE SOURCE AWARD (NOV 2011) | Clause |
| 52.219-30 | NOTICE OF SET-ASIDE FOR, OR SOLE SOURCE AWARD TO, WOMEN-OWNED SMALL BUSINESS CONCERNS ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM (DEC 2015) | Clause |
| 52.219-6 | NOTICE OF TOTAL SMALL BUSINESS SET-ASIDE (NOV 2011) | Clause |
| 52.219-8 | UTILIZATION OF SMALL BUSINESS CONCERNS (NOV 2016) | Clause |
| 52.219-9 | SMALL BUSINESS SUBCONTRACTING PLAN (JAN 2017) (ALTERNATE II - NOV 2016) | Clause |
| 52.222-19 | CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES (OCT 2016) | Clause |
| 52.222-21 | PROHIBITION OF SEGREGATED FACILITIES (APR 2015) | Clause |
| 52.222-26 | EQUAL OPPORTUNITY (SEP 2016) | Clause |
| 52.222-3 | CONVICT LABOR (JUN 2003) | Clause |
| 52.222-35 | EQUAL OPPORTUNITY FOR VETERANS (OCT 2015) | Clause |
| 52.222-36 | EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES (JUL 2014) | Clause |
| 52.222-37 | EMPLOYMENT REPORTS ON VETERANS (FEB 2016) | Clause |
| 52.222-40 | NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DEC 2010) | Clause |
| 52.222-50 | COMBATING TRAFFICKING IN PERSONS (MAR 2015) | Clause |
| 52.222-54 | EMPLOYMENT ELIGIBILITY VERIFICATION (OCT 2015) | Clause |
| 52.223-13 | ACQUISITION OF EPEAT - REGISTERED IMAGING EQUIPMENT (JUN 2014) | Clause |
| 52.223-14 | ACQUISITION OF EPEAT® - REGISTERED TELEVISIONS (JUN 2014) | Clause |

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| 52.223-15 | ENERGY EFFICIENCY IN ENERGY-CONSUMING PRODUCTS (DEC 2007) | Clause |
| 52.223-16 | ACQUISITION OF EPEAT® - REGISTERED PERSONAL COMPUTER PRODUCTS (OCT 2015) | Clause |
| 52.223-18 | ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011) | Clause |
| 52.225-13 | RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008) | Clause |
| 52.225-5 | TRADE AGREEMENTS (OCT 2016) | Clause |
| 52.232-33 | PAYMENT BY ELECTRONIC FUNDS TRANSFER -- SYSTEM FOR AWARD MANAGEMENT (JUL 2013) | Clause |
| 52.239-1 | PRIVACY OR SECURITY SAFEGUARDS (AUG 1996) | 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 |
|---|---|---|
| 52.222-17 | NONDISPLACEMENT OF QUALIFIED WORKERS (MAY 2014) | Clause |
| 52.222-41 | SERVICE CONTRACT LABOR STANDARDS (MAY 2014) | Clause |
| 52.222-42 | STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014) | Clause |
| 52.222-43 | FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT LABOR STANDARDSâ??PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 2014) | Clause |
| 52.222-51 | EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR MAINTENANCE, CALIBRATION, OR REPAIR OF CERTAIN EQUIPMENT - REQUIREMENTS (MAY 2014) | Clause |
| 52.222-53 | EXEMPTION FROM APPLICATION OF THE SERVICE CONTRACT LABOR STANDARDS TO CONTRACTS FOR CERTAIN SERVICES - REQUIREMENTS (MAY 2014) | Clause |
| 52.222-55 | MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DEC 2015) | Clause |

(d) (1) The Comptroller General of the United States, an appropriate Inspector General appointed

under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), or an authorized representative of either of the foregoing officials shall have access to and right to —

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

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

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

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

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

(A) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509).

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

(C) 52.219-8, Utilization of Small Business Concerns (Nov 2016) (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 $700,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(D) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(E) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).

(F) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).

(G) 52.222–36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).

(H) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222–40.

(I) 52.222-41, Service Contract Labor Standards (May 2014) (41 U.S.C. chapter 67).

(J) . (1) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627).

. (2) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).

(K) 52.222–51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements (May 2014) (41 U.S.C. chapter 67).

(L) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements (May 2014) (41 U.S.C. chapter 67).

(M) 52.222-54, Employment Eligibility Verification (Oct 2015) (Executive Order

12989).

(N) 52.222-55, Minimum Wages Under Executive Order 13658 (Mar 2016).

(O) 52.222-59 Compliance with Labor Laws (Executive Order 13673) (Oct 2016).

**Note to paragraph (e)(1)(ii)(O):** *By a court order issued on October 24, 2016, 52.222-59 is enjoined indefinitely as of the date of the order. The enjoined paragraph will become effective immediately if the court terminates the injunction. At that time, GSA, DoD and NASA will publish a document in the* ***Federal Register*** *advising the public of the termination of the injunction*

(P) 52.222-60, Paycheck Transparency (Executive Order 13673) (Oct 2016).

(Q) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).

(R) . (A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).

. (B) Alternate I (Jan 2017) of 52.224-3

(S) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note)

(T) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations. (May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(U) 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.

[Note to Offerors: If choosing not to accept orders funded in whole or in part by the American Recovery and Reinvestment Act (ARRA), this clause will be replaced with the base clause, meaning that Alternate II is not applicable.]