

## **Part II – Contract Clauses**

### **Section I**

### **Contract Clauses**

**I.1 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 these addresses:

<https://www.acquisition.gov/?q=browsefar>

<http://energy.gov/management/downloads/searchable-electronic-department-energy-acquisition-regulation>

**I.2 FAR 52.252-6 Authorized Deviations in Clauses (Nov 2020)**

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the date of the clause.
- (b) The use in this solicitation or contract of any Department of Energy Acquisition Regulation (48 CFR Chapter 9) clause with an authorized deviation is indicated by the addition of “(DEVIATION)” after the name of the regulation.

**Table I-1. Clauses**

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.3	52.202-1	Definitions (Jun 2020)	
I.4	52.203-3	Gratuities (Apr 1984)	
I.5	52.203-5	Covenant Against Contingent Fees (May 2014)	
I.6	52.203-6	Restrictions on Subcontractor Sales to the Government (Jun 2020)	
I.7	52.203-7	Anti-Kickback Procedures (Jun 2020)	
I.8	52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (May 2014)	
I.9	52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (May 2014)	
I.10	52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Jun 2020)	
I.11	52.203-13	Contractor Code of Business Ethics and Conduct (Nov 2021)	
I.12	52.203-14	Display of Hotline Poster(s) (Nov 2021)	(b)(3) DOE Office of Inspector General <a href="#">Hotline Poster</a>
I.13	52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Jun 2020)	
I.14	52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)	
I.15	52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011)	
I.16	52.204-9	Personal Identity Verification of Contractor Personnel (Jan 2011)	
I.17	52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020)	
I.18	52.204-13	System for Award Management Maintenance (Oct 2018)	
I.19	52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016)	
I.20	52.204-18	Commercial and Government Entity Code Maintenance (Aug 2020)	
I.21	52.204-19	Incorporation by Reference of Representations and Certifications (Dec 2014)	

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.22	52.204-21 <a href="#">Full Text Below</a>	Basic Safeguarding of Covered Contractor Information Systems (Nov 2021)	
I.23	52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021)	
I.24	52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)	
I.25	52.209-6	Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Nov 2021)	
I.26	52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018)	
I.27	52.209-10	Prohibition on Contracting With Inverted Domestic Corporations (Nov 2015)	
I.28	52.210-1	Market Research (Nov 2021)	
I.29	52.215-2	Audit and Records – Negotiation (Jun 2020)	
I.30	52.215-8	Order of Precedence – Uniform Contract Format (Oct 1997)	
I.31	52.215-10	Price Reduction for Defective Certified Cost or Pricing Data (Aug 2011)	
I.32	52.215-11	Price Reduction for Defective Certified Cost or Pricing Data-Modifications (Jun 2020)	
I.33	52.215-12	Subcontractor Certified Cost or Pricing Data (Jun 2020)	
I.34	52.215-13	Subcontractor Certified Cost or Pricing Data – Modifications (Jun 2020)	
I.35	52.215-14	Integrity of Unit Prices (Nov 2021)	
I.36	52.215-15	Pension Adjustments and Asset Reversions (Oct 2010)	
I.37	52.215-17	Waiver of Facilities Capital Cost of Money (Oct 1997) <b>NOTE: This clause will not be included in the contract if awardee proposes Facilities Capital Cost of Money in its proposal.</b>	
I.38	52.215-18	Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other Than Pensions (Jul 2005)	
I.39	52.215-19	Notification of Ownership Changes (Oct 1997)	
I.40	52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data—Modifications (Nov 2021) – Alternate III (Oct 1997)	(c) email, as requested by the Contracting Officer.
I.41	52.215-23	Limitations on Pass-Through Charges (June 2020)	
I.42	52.216-7	Allowable Cost and Payment (Aug 2018) as modified by DEAR 952.216-7 (Applies to CR Task Orders Only)	(a)(3) 30 <sup>th</sup> (cost invoices) and 30 <sup>th</sup> (fee invoices)
I.43	52.216-8	Fixed Fee (Jun 2011)	
I.44	52.216-10	Incentive Fee (Jun 2011)	(e)(1) 30, 30, 15, zero
I.45	52.216-11	Cost Contract – No Fee (Apr 1984) (Applies to CR Task Orders without fee only)	
I.46	52.216-18 <a href="#">Full Text Below</a>	Ordering (Aug 2020)	(a) from effective date of contract award through the end of the total contract ordering period

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.47	52.216-19 <a href="#">Full Text Below</a>	Order Limitations (Oct 1995)	(a) \$500,000 (b)(1) \$3,000,000,000 (b)(2) \$3,000,000,000 (b)(3) 365 (d) 5
I.48	52.216-22 <a href="#">Full Text Below</a>	Indefinite Quantity (Oct 1995)	(d) five years beyond the expiration date of the contract ordering in period
I.49	52.217-8	Option to Extend Services (Nov 1999)	Any time prior to the expiration of the contract and/or Task Order
I.50	52.217-9 <a href="#">Full Text Below</a>	Option to Extend the Term of the Contract (Mar 2000) (Applies to Task Orders with an option(s) only)	(a) TBD on Task Order Level; TBD on Task Order level (c) TBD on Task Order level.
I.51	52.219-4	Notice of Price Evaluation for HUBZone Small Business Concerns (Oct 2022)	[Offeror Fill-in]
I.52	52.219-8	Utilization of Small Business Concerns (Oct 2022)	
I.53	52.219-9	Small Business Subcontracting Plan (Oct 2022) – Alternate II (Nov 2016)	
I.54	52.219-16	Liquidated Damages – Subcontracting Plan (Sep 2021)	
I.55	52.219-28	Post-Award Small Business Program Re-representation (Mar 2023)	(h) [Contractor Fill-In, post-award, as applicable]
I.56	52.222-1	Notice to the Government of Labor Disputes (Feb 1997)	
I.57	52.222-2	Payment for Overtime Premiums (Jul 1990) (Applies to CR Task Orders only)	(a) zero
I.58	52.222-3	Convict Labor (Jun 2003)	
I.59	52.222-4	Contract Work Hours and Safety Standards – Overtime Compensation (May 2018)	
I.60	52.222-6	Construction Wage Rate Requirements (Aug 2018) (Applies to any construction work only)	
I.61	52.222-7	Withholding of Funds (May 2014) (Applies to construction work only)	
I.62	52.222-8	Payrolls and Basic Records (July 2021) (Applies to construction work only)	
I.63	52.222-9	Apprentices and Trainees (July 2005) (Applies to construction work only)	
I.64	52.222-10	Compliance with Copeland Act Requirements (Feb 1988) (Applies to construction work only)	
I.65	52.222-11	Subcontracts (Labor Standards) (May 2014) (Applies to construction work only)	
I.66	52.222-12	Contract Termination—Debarment (May 2014) (Applies to any construction work only)	
I.67	52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations (May 2014) (Applies to construction work only)	
I.68	52.222-14	Disputes Concerning Labor Standards (Feb 1988) (Applies to any construction work only)	
I.69	52.222-15	Certification of Eligibility (May 2014) (Applies to construction work only)	

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.70	52.222-16	Approval of Wage Rates (May 2014) (Applies to construction work only)	
I.71	52.222-19	Child Labor – Cooperation with Authorities and Remedies (Dec 2022)	
I.72	52.222-20	Contracts for Materials, Supplies, Articles, and Equipment (Jun 2020)	
I.73	52.222-21	Prohibition of Segregated Facilities (Apr 2015)	
I.74	52.222-26	Equal Opportunity (Sep 2016)	
I.75	52.222-27	Affirmative Action Compliance Requirements for Construction (Apr 2015) (Applies to construction work only)	
I.76	52.222-30	Construction Wage Rate Requirements—Price Adjustment (None or Separately Specified Method) (Aug 2018) (Applies to any construction work only)	
I.77	52.222-31	Construction Wage Rate Requirements – Price Adjustment (Percentage Method) (Aug 2018) (Applies to FFP Task Orders for construction work only)	(b)(1) TBD on Task Order level (b)(2) TBD on Task Order level
I.78	52.222-34	Project Labor Agreement (May 2010) (Applies to construction or D&D work only)	
I.79	52.222-35 <a href="#">Full Text Below</a>	Equal Opportunity for Veterans (June 2020)	
I.80	52.222-36 <a href="#">Full Text Below</a>	Equal Opportunity for Workers with Disabilities (Jun 2020)	
I.81	52.222-37	Employment Reports on Veterans (Jun 2020)	
I.82	52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	
I.83	52.222-41	Service Contract Labor Standards (Aug 2018)	
I.84	52.222-42 <a href="#">Full Text Below</a>	Statement of Equivalent Rates for Federal Hires (May 2014)	See full text below
I.85	52.222-43	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (Multiple Year and Option Contracts) (Aug 2018)	
I.86	52.222-44	Fair Labor Standards Act and Service Contract Labor Standards - Price Adjustment (May 2014)	
I.87	52.222-50	Combating Trafficking in Persons (Nov 2021)	
I.88	52.222-54	Employment Eligibility Verification (May 2022)	
I.89	52.222-55	Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022)	
I.90	52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2022)	
I.91	52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Sep 2013)	
I.92	52.223-3	Hazardous Material Identification and Material Safety Data (Feb 2021) – Alternate I (Jul 1995)	(b) Offeror Fill-In
I.93	52.223-5	Pollution Prevention and Right-to-Know Information (May 2011)	
I.94	52.223-6	Drug-Free Workplace (May 2001)	
I.95	52.223-9 <a href="#">Full Text Below</a>	Estimate of Percentage of Recovered Material Content for EPA Designated Items (May 2008)	(b)(2) the Contracting Officer
I.96	52.223-10	Waste Reduction Program (May 2011)	

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.97	52.223-11	Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016)	
I.98	52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016)	
I.99	52.223-13	Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014)	
I.100	52.223-14	Acquisition of EPEAT®-Registered Televisions (Jun 2014)	
I.101	52.223-15	Energy Efficiency in Energy-Consuming Products (May 2020)	
I.102	52.223-16	Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015)	
I.103	52.223-17	Affirmative Procurement of EPA-designated Items in Service and Construction Contracts (Aug 2018)	
I.104	52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020)	
I.105	52.223-19	Compliance with Environmental Management Systems (May 2011)	
I.106	52.223-20	Aerosols (Jun 2016)	
I.107	52.223-21	Foams (Jun 2016)	
I.108	52.224-1	Privacy Act Notification (Apr 1984)	
I.109	52.224-2	Privacy Act (Apr 1984)	
I.110	52.224-3	Privacy Act Training (Jan 2017)	
I.111	52.225-1	Buy American – Supplies (Oct 2022)	
I.112	52.225-8	Duty-Free Entry (Oct 2010)	
I.113	52.225-9 <a href="#">Full Text Below</a>	Buy American – Construction Materials (Oct 2022)	(b)(2) None
I.114	52.225-11 <a href="#">Full Text Below</a>	Buy American – Construction Materials Under Trade Agreements (Dec 2022)	(b)(3) None
I.115	52.225-13	Restrictions on Certain Foreign Purchases (Feb 2021)	
I.116	52.226-1	Utilization of Indian Organizations and Indian-Owned Economic Enterprises (Jun 2000)	
I.117	52.227-1	Authorization and Consent (Jun 2020)	
I.118	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Jun 2020)	
I.119	52.227-3	Patent Indemnity (Apr 1984)	
I.120	52.227-4	Patent Indemnity – Construction Contracts (Dec 2007)	
I.121	52.227-9	Refund of Royalties (Apr 1984)	
I.122	52.227-14	Rights in Data – General (May 2014) – Alt V (Dec 2007) (as modified by DEAR 927.409)	
I.123	52.227-16	Additional Data Requirements (Jun 1987)	
I.124	52.227-23	Rights to Proposal Data (Technical) (Jun 1987)	[Offeror Fill-In]
I.125	52.228-5	Insurance – Work On A Government Installation (Jan 1997) (Applies to FFP Task Orders only)	
I.126	52.229-3	Federal, State, and Local Taxes (Feb 2013)	
I.127	52.230-2	Cost Accounting Standards (Jun 2020)	
I.128	52.230-6	Administration of Cost Accounting Standards (Jun 2010)	
I.129	52.232-1	Payments (Apr 1984)	
I.130	52.232-5	Payments under Fixed-Price Construction Contracts (May 2014) (Applies to FP construction work only)	
I.131	52.232-8	Discounts for Prompt Payment (Feb 2002)	
I.132	52.232-9	Limitation on Withholding of Payments (Apr 1984)	
I.133	52.232-11	Extras (Apr 1984)	
I.134	52.232-17	Interest (May 2014)	

<b>Clause No.</b>	<b>FAR/DEAR Reference</b>	<b>Title</b>	<b>Fill-In Information; See FAR 52.104(d)</b>
I.135	52.232-18	Availability of Funds (Apr 1984)	
I.136	52.232-22	Limitation of Funds (Apr 1984)	
I.137	52.232-23	Assignment of Claims (May 2014)	
I.138	52.232-25	Prompt Payment (Jan 2017) – Alternate I (Feb 2002) (Alternate 1 applies to CR Task Orders Only)	
I.139	52.232-27	Prompt Payment for Construction Contracts (Jan 2017) (Applies to construction work only)	
I.140	52.232-33	Payment by Electronic Funds Transfer-System for Award Management (Oct 2018)	
I.141	52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	
I.142	52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Mar 2023)	
I.143	52.233-1	Disputes (May 2014) – Alternate I (Dec 1991)	
I.144	52.233-3	Protest after Award (Aug 1996) – Alternate I (Jun 1985)	
I.145	52.233-4	Applicable Law for Breach of Contract Claim (Oct 2004)	
I.146	52.236-1	Performance of Work by the Contractor (Apr 1984) (Applies to FFP construction work only)	TBD on Task Order level
I.147	52.236-2	Differing Site Conditions (Apr 1984) (Applies to FFP construction or D&D work only)	
I.148	52.236-3	Site Investigation and Conditions Affecting the Work (Apr 1984) (Applies to FFP construction or D&D work only)	
I.149	52.236-5	Material and Workmanship (Apr 1984) (Applies to construction work only)	
I.150	52.236-6	Superintendence by the Contractor (Apr 1984) (Applies to FFP construction or D&D work only)	
I.151	52.236-7	Permits and Responsibilities (Nov 1991) (Applies to construction or D&D work only)	
I.152	52.236-8	Other Contracts (Apr 1984) (Applies to FFP construction or D&D work only)	
I.153	52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984) (Applies to FFP construction or D&D work only)	
I.154	52.236-10	Operations and Storage Areas (Apr 1984) (Applies to FFP construction or D&D work only)	
I.155	52.236-11	Use and Possession Prior to Completion (Apr 1984) (Applies to FFP construction work only)	
I.156	52.236-12	Cleaning Up (Apr 1984) (Applies to FFP construction or D&D work only)	
I.157	52.236-13	Accident Prevention (Nov 1991) – Alt I (Nov 1991) (Applies to FFP construction or D&D work only)	
I.158	52.236-14	Availability and Use of Utility Services (Apr 1984) (Applies to FFP construction or D&D work only)	
I.159	52.236-15	Schedules for Construction Contracts (Apr 1984) (Applies to FFP construction or D&D work only)	
I.160	52.236-18	Work Oversight in Cost-Reimbursement Construction Contracts (Apr 1984) (Applies to CR construction work only)	
I.161	52.236-19	Organization and Direction of the Work (Apr 1984) (Applies to CR construction work only)	

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.162	52.236-21	Specifications and Drawings for Construction (Feb 1997) - Alt I (Apr 1984) or Alt II (Apr 1984), as appropriate (Applies to FFP construction or D&D work only)	[Fill-In for Alt II to be completed by Contracting Officer prior to issuance of any applicable Task Orders]
I.163	52.237-2	Protection of Government Buildings, Equipment, and Vegetation (Apr 1984) (Applies to CR construction work only)	
I.164	52.237-3	Continuity of Services (Jan 1991)	
I.165	52.239-1	Privacy or Security Safeguards (Aug 1996)	
I.166	52.242-1	Notice of Intent to Disallow Costs (Apr 1984)	
I.167	52.242-3	Penalties for Unallowable Costs (Dec 2020)	
I.168	52.242-4	Certification of Final Indirect Costs (Jan 1997)	
I.169	52.242-5	Payments to Small Business Subcontractors (Jan 2017)	
I.170	52.242-13	Bankruptcy (Jul 1995)	
I.171	52.243-1	Changes – Fixed Price (Aug 1987) – Alt II (Apr 1984)	
I.172	52.243-2	Changes – Cost-Reimbursement (Aug 1987) – Alt II (Apr 1984), Alt III (Apr 1984)	
I.173	52.243-4	Changes (Jun 2007)	
I.174	52.243-6	Change Order Accounting (Apr 1984)	
I.175	52.243-7	Notification of Changes (Jan 2017)	
I.176	52.244-2	Subcontracts (Jun 2020) – Alternate I (Jun 2020)	(d) The DOE Contracting Officer will issue within 30 days from Notice to Proceed a letter to the Contractor setting thresholds for consent to subcontract for all subcontract types; (j) [Contracting Officer fill in at award]
I.177	52.244-5	Competition in Subcontracting (Dec 1996)	
I.178	52.244-6	Subcontracts for Commercial Products and Commercial Services (Jun 2023)	
I.179	52.245-1	Government Property (Sep 2021)	
I.180	52.245-9	Use and Charges (Apr 2012)	
I.181	52.246-25	Limitation of Liability – Services (Feb 1997)	
I.182	52.246-26	Reporting Nonconforming Items (Nov 2021)	
I.183	52.247-1	Commercial Bill of Lading Notations (Feb 2006)	(a) Department of Energy (b) Department of Energy; Contract No. (Contracting Officer fill in at award); the Contract Administration Office specified in Section G
I.184	52.247-63	Preference for U.S.-Flag Air Carriers (June 2003)	
I.185	52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021)	



Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.186	52.247-67 <a href="#">Full Text Below</a>	Submission of Transportation Documents for Audit (Feb 2006)	(c) Contracting Officer identified in Section G
I.187	52.247-68	Report of Shipment (REPSHIP) (Feb 2006)	
I.188	52.249-2	Termination for the Convenience of the Government (Fixed-Price) (Apr 2012) (Applies to FFP Task Orders only)	
I.189	52.249-3	Termination for Convenience of the Government (Dismantling, Demolition, or Removal of Improvements) (Apr 2012) (Applies to FFP D&D Task Orders only)	
I.190	52.249-6	Termination (Cost-Reimbursement) (May 2004) – Alternate I (Sep 1996) (Applies to CR Task Orders only)	
I.191	52.249-8	Default (Fixed-Price Supply and Service) (Apr 1984) (Applies to FFP Task Orders only)	
I.192	52.249-10	Default (Fixed-Price Construction) (Apr 1984) – Alt I (Apr 1984) (Applies to FFP construction or D&D Task Orders only)	
I.193	52.249-14	Excusable Delays (Apr 1984) (Applies to CR Task Orders only)	
I.194	52.251-1	Government Supply Sources (Apr 2012)	
I.195	52.251-2	Interagency Fleet Management System Vehicles and Related Services (Jan 1991)	
I.196	52.253-1	Computer Generated Forms (Jan 1991)	
I.197	952.202-1	Definitions (Feb 2011)	
I.198	952.203-70	Whistleblower Protection for Contractor Employees (Dec 2000)	
I.199	952.204-2	Security Requirements (Aug 2016)	
I.200	952.204-70	Classification/Declassification (Sep 1997)	
I.201	952.204-75	Public Affairs (Dec 2000)	
I.202	952.204-77	Computer Security (Aug 2006)	
I.203	952.208-7	Tagging of Leased Vehicles (Apr 1984)	
I.204	952.208-70	Printing (Apr 1984)	
I.205	952.209-72	Organizational Conflicts of Interest (Aug 2009) – Alternate I (Feb 2011)	(b)(1)(i) zero (0)
I.206	952.215-70	Key Personnel (Dec 2000)	
I.207	952.216-7	Allowable Cost and Payment (Feb 2011)	
I.208	952.217-70	Acquisition of Real Property (Mar 2011)	
I.209	952.223-72	Radiation Protection and Nuclear Criticality (Apr 1984)	
I.210	952.223-75	Preservation of Individual Occupational Radiation Exposure Records (Apr 1984)	
I.211	952.223-78	Sustainable Acquisition Program (Oct 2010) – Alternate I (Oct 2010) (Alternate I applies to construction or D&D work only)	
I.212	952.225-70	Subcontracting for Nuclear Hot Cell Services (Mar 1993)	
I.213	952.225-71	Compliance with Export Control Laws and Regulations (Nov 2015)	
I.214	952.226-74	Displaced Employee Hiring Preference (Jun 1997)	
I.215	952.231-71	Insurance—Litigation and Claims (Jul 2013)	
I.216	952.242-70	Technical Direction (Dec 2000)	
I.217	952.247-70	Foreign Travel (Jun 2010)	
I.218	952.250-70	Nuclear Hazards Indemnity Agreement (Aug 2016)	
I.219	952.251-70	Contractor Employee Travel Discounts (Aug 2009)	
I.220	970.5204-1	Counterintelligence (Dec 2010)	
I.221	970.5204-3 <a href="#">Full Text Below</a>	Access to and Ownership of Records (Oct 2014) (Deviation) (Issued by DOE Policy Flash 2015-23)	

Clause No.	FAR/DEAR Reference	Title	Fill-In Information; See FAR 52.104(d)
I.222	970.5215-3	Conditional Payment of Fee, Profit, and Other Incentives—Facility Management Contracts (Aug 2009) –Alternate II (Aug 2009)	
I.223	970.5223-1	Integration of Environment, Safety, and Health into Work Planning and Execution (Dec 2000)	
I.224	970.5226-2	Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993 (Dec 2000)	
I.225	970.5227-1	Rights in Data – Facilities (Dec 2000)	[Contracting Officer Fill-In at Award]
I.226	970.5227-4	Authorization and Consent (Aug 2002)	
I.227	970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2000)	
I.228	970.5227-7	Royalty Information (Dec 2000)	
I.229	970.5227-8	Refund of Royalties (Aug 2002)	
I.230	970.5227-9	Notice of Right to Request Patent Waiver (Dec 2000)	
I.231	970.5227-10	Patent Rights - Management and Operating Contracts, Nonprofit Organization or Small Business Firm Contractor (Dec 2000)	
I.232	970.5227-11	Patent Rights - Management and Operating Contracts, For-Profit Contractor, Non-Technology Transfer (Dec 2000)	

**Acronyms:**

CPIF = cost plus incentive fee	FAR = Federal Acquisition Regulation
CR = cost reimbursement	FFP = firm fixed price
D&D = decontamination and decommissioning	HUBZone = Historically Underutilized Business Zone
DEAR = U.S. Department of Energy Acquisition Regulation	PRB = post-retirement benefit
DOE = U.S. Department of Energy	TBD = to be determined
EPA = U.S. Environmental Protection Agency	

This contract incorporates one or more clauses by reference as indicated in the matrix above.

Any clauses that are included in full text are listed below and include the same Section I identifier in parentheses as was used above.

**(I.22) FAR 52.204-21 Basic Safeguarding of Covered Contractor Information Systems (Nov 2021)**

(a) Definitions. As used in this clause—

“Covered contractor information system” means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

“Federal contract information” means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

“Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

“Safeguarding” means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

- (i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
- (ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
- (iii) Verify and control/limit connections to and use of external information systems.
- (iv) Control information posted or processed on publicly accessible information systems.
- (v) Identify information system users, processes acting on behalf of users, or devices.
- (vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
- (vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.
- (viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
- (ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
- (x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
- (xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
- (xii) Identify, report, and correct information and information system flaws in a timely manner.
- (xiii) Provide protection from malicious code at appropriate locations within organizational information systems.
- (xiv) Update malicious code protection mechanisms when new releases are available.
- (xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) Other requirements. This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the

subcontractor may have Federal contract information residing in or transiting through its information system.

**(I.46) FAR 52.216-18 Ordering (Aug 2020)**

- (a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from effective date of contract award through the end of the total contract ordering period.
- (b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.
- (c) A delivery order or task order is considered “issued” when—
  - (1) If sent by mail (includes transmittal by U.S. mail or private delivery service), the Government deposits the order in the mail;
  - (2) If sent by fax, the Government transmits the order to the Contractor's fax number; or
  - (3) If sent electronically, the Government either—
    - (i) Posts a copy of the delivery order or task order to a Government document access system, and notice is sent to the Contractor; or
    - (ii) Distributes the delivery order or task order via email to the Contractor's email address.
- (d) Orders may be issued by methods other than those enumerated in this clause only if authorized in the contract.

**(I.47) FAR 52.216-19 Order Limitations (Oct 1995)**

- (a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than \$500,000 the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.
- (b) Maximum order. The Contractor is not obligated to honor:
  - (1) Any order for a single item in excess of \$3.0B;
  - (2) Any order for a combination of items in excess of \$3.0B; or
  - (3) A series of orders from the same ordering office within 365 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.
- (c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.
- (d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor’s intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

**(I.48) FAR 52.216-22 Indefinite Quantity (Oct 1995)**

- (a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.
- (b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the “maximum.” The Government shall order at least the quantity of supplies or services designated in the Schedule as the “minimum.”
- (c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.
- (d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor’s and Government’s rights and obligations with respect to that order to the same extent as if the order were completed during the contract’s effective period; provided, that the Contractor shall not be required to make any deliveries under this contract five years beyond the expiration date of the contract ordering in period.

**(I.50) FAR 52.217-9 Option to Extend the Term of the Contract (Mar 2000) (Applies to Task Orders with an option(s) only)**

- (a) The Government may extend the term of this contract by written notice to the Contractor within TBD on Task Order level days before the contract expires; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least TBD on Task Order level. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option clause.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed TBD on Task Order level.

**(I.79) FAR 52.222-35 Equal Opportunity for Veterans (Jun 2020)**

- (a) Definitions. As used in this clause—
  - “Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR 22.1301.
- (b) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.
- (c) Subcontracts. The Contractor shall insert the terms of this clause in subcontracts valued at or more above the threshold specified in FAR 22.1303(a) on the date of subcontract award. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the

terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

**(I.80) FAR 52.222-36 Equal Opportunity for Workers with Disabilities (Jun 2020)**

- (a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.
- (b) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of the threshold specified in Federal Acquisition Regulation (FAR) 22.1408(a) on the date of subcontract award unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Contractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

**(I.84) FAR 52.222-42 Statement of Equivalent Rates for Federal Hires (May 2014)**

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only: It is not a Wage Determination (Please refer to Section J, Attachment J-5 for Wage Determinations applicable to this Contract).

**Table I-2. Classes of Service, Wage, and Fringe Benefits**

Classifications	Grade	Equivalent Pay
Administrative Assistant	GS-7	\$23.38
D&D/Waste Operations Specialist	WG-6	\$26.15
Dosimetry Technician	WG-9	\$29.67
Electrician	WG-10	\$30.64
General Clerk I	GS-2	\$13.78
General Clerk II	GS-3	\$15.03
Heavy Equipment Operator	WG-10	\$30.64
Industrial Safety Technician	WG-9	\$29.67
Instrument Mechanic	WG-10	\$30.64
Laborer – Maintenance	WG-3	\$21.84
Plant Systems Operations Specialist	GS-8	\$25.90
Radiological Control Technician	GS-9	\$28.60
Current SCA Fringe Benefit is \$4.80/hour; EO 13706 Establishing Paid Sick Leave-fringe rate drops to \$4.41/hour.		

**(I.95) FAR 52.223-9 Estimate of Percentage of Recovered Material Content for EPA-Designated Products (May 2008)**

(a) Definitions. As used in this clause—

“Postconsumer material” means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of “recovered material.”

“Recovered material” means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall:

(1) Estimate the percentage of the total recovered material content for EPA designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to the Contracting Officer.

**(I.113) FAR 52.225-9 Buy American – Construction Materials (Oct 2022)**

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

*Commercially available off-the-shelf (COTS) item—*

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

(i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) [2.101](#));

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

*Cost of components means—*

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

*Critical component* means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR [25.105](#).

*Critical item* means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR [25.105](#).

*Domestic construction material* means—

- (1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-
  - (i) An unmanufactured construction material mined or produced in the United States; or
  - (ii) A construction material manufactured in the United States, if-
    - (A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic. Components of unknown origin are treated as foreign; or
    - (B) The construction material is a COTS item; or
- (2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all the materials used in such construction material is calculated in accordance with the definition of "cost of components".

*Fastener* means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

*Foreign construction material* means a construction material other than a domestic construction material.

*Foreign iron and steel* means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in



the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

*Predominantly of iron or steel or a combination of both* means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

*Steel* means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

"United States" means the 50 States, the District of Columbia, and outlying areas.

(b) Domestic preference.

(1) This clause implements [41 U.S.C. chapter 83](#), Buy American, by providing a preference for domestic construction material. In accordance with [41 U.S.C. 1907](#), the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction materials, excluding COTS fasteners. (See FAR [12.505\(a\)\(2\)](#)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to information technology that is a commercial product or to the construction materials or components listed by the Government as follows:

*"none"*

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that-

(i) The cost of domestic construction material would be unreasonable.

(A) *For domestic construction material that is not a critical item or does not contain critical components.*

*(1)The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;*

*(2)For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that is manufactured in the United States and does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that exceeds 55 percent domestic content as a domestic offer and determine whether the cost*

*of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(A)(1) of this clause.*

*(3)The procedures in paragraph (b)(3)(i)(A)(2) of this clause will no longer apply as of January 1, 2030.*

**(B) For domestic construction material that is a critical item or contains critical components.**

*(1)The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR [25.105](#).*

*(2)For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest foreign offer of construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(3)(i)(B)(1) of this clause.*

*(3)The procedures in paragraph (b)(3)(i)(B)(2) of this clause will no longer apply as of January 1, 2030.*

- (ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or
- (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

**(c) Request for determination of inapplicability of the Buy American statute.**

**(1)**

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including-

- (A) A description of the foreign and domestic construction materials;
- (B) Unit of measure;
- (C) Quantity;
- (D) Price;
- (E) Time of delivery or availability;
- (F) Location of the construction project;

- (G) Name and address of the proposed supplier; and
  - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
  - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
  - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
  - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.
- (d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

<b>Foreign and Domestic Construction Materials Price Comparison</b>			
Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<b>Item 1</b>			
Foreign construction material			
Domestic construction material			
<b>Item 2</b>			
Foreign construction material			
Domestic construction material			
[*Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued)].			
[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]			
[Include other applicable supporting information.]			

**(I.114) FAR 52.225-11 Buy American-Construction Materials Under Trade Agreements (Dec 2022)**

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

*Caribbean Basin country construction material* means a construction material that—

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

*Commercially available off-the-shelf (COTS) item*—

- (1) Means any item of supply (including construction material) that is—
  - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” at Federal Acquisition Regulation (FAR) [2.101](#));
  - (ii) Sold in substantial quantities in the commercial marketplace; and
  - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in [46 U.S.C.40102\(4\)](#), such as agricultural products and petroleum products.

*Component* means an article, material, or supply incorporated directly into a construction material.

*Construction material* means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

*Cost of components* means—

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

*Critical component* means a component that is mined, produced, or manufactured in the United States and deemed critical to the U.S. supply chain. The list of critical components is at FAR [25.105](#).

*Critical item* means a domestic construction material or domestic end product that is deemed critical to U.S. supply chain resiliency. The list of critical items is at FAR [25.105](#).

*Designated country* means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, Ukraine, or United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

*Designated country construction material* means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

*Domestic construction material* means—

- (1) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both-
  - (i) An unmanufactured construction material mined or produced in the United States; or
  - (ii) A construction material manufactured in the United States, if—
    - (A) The cost of its components mined, produced, or manufactured in the United States exceeds 60 percent of the cost of all its components, except that the percentage will be 65 percent for items delivered in calendar years 2024 through 2028 and 75 percent for items delivered starting in calendar year 2029.
    - (B) The construction material is a COTS item; or
- (2) For construction material that consists wholly or predominantly of iron or steel or a combination of both, a construction material manufactured in the United States if the cost of foreign iron and steel constitutes less than 5 percent of the cost of all components used in such construction material. The cost of foreign iron and steel includes but is not limited to the cost of foreign iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the construction material and a good faith estimate of the cost of all foreign iron or steel components excluding COTS fasteners. Iron or steel components of unknown origin are treated as foreign. If the construction material contains multiple components, the cost of all

the materials used in such construction material is calculated in accordance with the definition of "cost of components".

*Fastener* means a hardware device that mechanically joins or affixes two or more objects together. Examples of fasteners are nuts, bolts, pins, rivets, nails, clips, and screws.

*Foreign construction material* means a construction material other than a domestic construction material.

*Foreign iron and steel* means iron or steel products not produced in the United States. Produced in the United States means that all manufacturing processes of the iron or steel must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving refinement of steel additives. The origin of the elements of the iron or steel is not relevant to the determination of whether it is domestic or foreign.

*Free Trade Agreement country construction material* means a construction material that-

- (1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

*Least developed country construction material* means a construction material that-

- (1) Is wholly the growth, product, or manufacture of a least developed country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

*Predominantly of iron or steel or a combination of both* means that the cost of the iron and steel content exceeds 50 percent of the total cost of all its components. The cost of iron and steel is the cost of the iron or steel mill products (such as bar, billet, slab, wire, plate, or sheet), castings, or forgings utilized in the manufacture of the product and a good faith estimate of the cost of iron or steel components excluding COTS fasteners.

*Steel* means an alloy that includes at least 50 percent iron, between 0.02 and 2 percent carbon, and may include other elements.

*United States* means the 50 States, the District of Columbia, and outlying areas.

*WTO GPA country construction material* means a construction material that-

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) Construction materials.

- (1) This clause implements [41 U.S.C. chapter 83](#), Buy American, by providing a preference for domestic construction material. In accordance with [41 U.S.C.1907](#), the domestic content test of the Buy American statute is waived for construction material that is a COTS item, except that for construction material that consists wholly or predominantly of iron or steel or a combination of both, the domestic content test is applied only to the iron and steel content of the construction material, excluding COTS fasteners. (See FAR [12.505\(a\)\(2\)](#)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.
- (2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.
- (3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial product or to the construction materials or components listed by the Government as follows:

*[Contracting Officer to list applicable excepted materials or indicate "none"]*

- (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that-
  - (i) The cost of domestic construction material would be unreasonable.

*(A) For domestic construction material that is not a critical item or does not contain critical components.*

*(1) The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent;*

*(2) For construction material that is not a COTS item and does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(A)(1) of this clause.*

*(3) The procedures in paragraph (b)(4)(i)(A)(2) of this clause will no longer apply as of January 1, 2030.*

*(B) For domestic construction material that is a critical item or contains critical components.*

*(1) The cost of a particular domestic construction material that is a critical item or contains critical components, subject to the requirements of the Buy American statute, is unreasonable when the cost of such material exceeds the cost of foreign material by more than 20 percent plus the additional preference factor identified for the critical item or construction material containing critical components listed at FAR [25.105](#).*

*(2) For construction material that does not consist wholly or predominantly of iron or steel or a combination of both, if the cost of a particular domestic construction material is determined to be unreasonable or there is no domestic offer received, and the low offer is for foreign construction material that does not exceed 55 percent domestic content, the Contracting Officer will treat the lowest offer of foreign construction material that is manufactured in the United States and exceeds 55 percent domestic content as a domestic offer, and determine whether the cost of that offer is unreasonable by applying the evaluation factor listed in paragraph (b)(4)(i)(B)(1) of this clause.*

*(3) The procedures in paragraph (b)(4)(i)(B)(2) of this clause will no longer apply as of January 1, 2030.*

- (ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or
  - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (c) Request for determination of inapplicability of the Buy American statute.
- (1)
    - (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including-
      - (A) A description of the foreign and domestic construction materials;
      - (B) Unit of measure;
      - (C) Quantity;
      - (D) Price;
      - (E) Time of delivery or availability;
      - (F) Location of the construction project;
      - (G) Name and address of the proposed supplier; and
      - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
    - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.
    - (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
    - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.



- (2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.
- (d) *Data*. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

<b>Foreign and Domestic Construction Materials Price Comparison</b>			
Construction Material Description	Unit of Measure	Quantity	Price (Dollars)*
<b>Item 1</b>			
Foreign construction material			
Domestic construction material			
<b>Item 2</b>			
Foreign construction material			
Domestic construction material			

[\* Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]

[List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

**(I.186) FAR 52.247-67 Submission of Transportation Documents for Audit (Feb 2006)**

- (a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid:
  - (1) By the Contractor under a cost-reimbursement contract; and
  - (2) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.
- (b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding \$100. Bills under \$100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.
- (c) Contractors shall submit the above referenced transportation documents to:

[Contracting Officer identified in Section G]

**(I.221) DEAR 970.5204-3 Access To and Ownership of Records (Oct 2014) (Deviation)  
(Issued by DOE Policy Flash 2015-23)**

- (a) Government-owned records. Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract, including records series described within the contract as Privacy Act systems of records, shall be the property of the Government and shall be maintained in accordance with 36 Code of Federal Regulations (CFR,) Chapter XII, -- Subchapter B, “Records Management”. The contractor shall ensure records classified as Privacy Act system of records are maintained in accordance with FAR 52.224.2 “Privacy Act.”
- (b) Contractor-owned records. The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause.
- (1) Employment-related records (such as worker’s compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health related records and similar files), and non-employee patient medical/health-related records, except those records described by the contract as being operated and maintained by the Contractor in Privacy Act system of records.
  - (2) Confidential contractor financial information, internal corporate governance records and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor’s corporate headquarters);
  - (3) Records relating to any procurement action by the contractor, except for records that under 48 CFR 970.5232-3 are described as the property of the Government; and
  - (4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and
  - (5) The following categories of records maintained pursuant to the technology transfer clause of this contract:
    - (i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.
    - (ii) The contractor’s protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.
    - (iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.
- (c) Contract completion or termination. Upon contract completion or termination, the contractor shall ensure final disposition of all Government-owned records to a Federal Record Center, the National Archives and Records Administration, to a successor contractor, its designee, or other destinations, as directed by the Contracting Officer. Upon the request of the Government, the contractor shall provide either the original contractor-owned records or copies of the records identified in paragraph (b) of this

clause, to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act) as appropriate. If the contractor chooses to provide its original contractor-owned records to the Government or its designee, the contractor shall retain future rights to access and copy such records as needed.

- (d) Inspection, copying, and audit of records. All records acquired or generated by the Contractor under this contract in the possession of the Contractor, including those described at paragraph (b) of this clause, shall be subject to inspection, copying, and audit by the Government or its designees at all reasonable times, and the Contractor shall afford the Government or its designees reasonable facilities for such inspection, copying, and audit; provided, however, that upon request by the Contracting Officer, the Contractor shall deliver such records to a location specified by the Contracting Officer for inspection, copying, and audit. The Government or its designees shall use such records in accordance with applicable federal laws (including the Privacy Act), as appropriate.
- (e) Applicability. This clause applies to all records created, received and maintained by the contractor without regard to the date or origination of such records including all records acquired from a predecessor contractor.
- (f) Records maintenance and retention. Contractor shall create, maintain, safeguard, and disposition records in accordance with 36 Code of Federal Regulations (CFR) Chapter XII, Subchapter B, “Records Management” and the National Archives and Records Administration (NARA)-approved Records Disposition Schedules. Records retention standards are applicable for all classes of records, whether or not the records are owned by the Government or the contractor. The Government may waive application of the NARA-approved Records Disposition Schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies of records described in paragraph (b) and delivery of records described in paragraph (a) of this clause.
- (g) Subcontracts.
  - (1) The contractor shall include the requirements of this clause in all subcontracts that contain the Radiation Protection and Nuclear Criticality clause at 952.223–72, or whenever an on-site subcontract scope of work (i) could result in potential exposure to: A) radioactive materials; B) beryllium; or C) asbestos or (ii) involves a risk associated with chronic or acute exposure to toxic chemicals or substances or other hazardous materials that can cause adverse health impacts, in accordance with 10 CFR part 851. In determining its flow-down responsibilities, the Contractor shall include the requirements of this clause in all on-site subcontracts where the scope of work is performed in: (A) Radiological Areas and/or Radioactive Materials Areas (as defined at 10 CFR 835.2); (B) areas where beryllium concentrations exceed or can reasonably be expected to exceed action levels specified in 10 CFR 850; (C) an Asbestos Regulated area (as defined at 29 CFR 1926.1101 or 29 CFR 1910.1001); or (D) a workplace where hazard prevention and abatement processes are implemented in compliance with 10 CFR 851.21 to specifically control potential exposure to toxic chemicals or substances or other hazardous materials that can cause long term health impacts.
  - (2) The Contractor may elect to take on the obligations of the provisions of this clause in lieu of the subcontractor, and maintain records that would otherwise be maintained by the subcontractor.