



Document Title
Attachment 1 - FAR Part 12 Commercial Items
Document No.
50463
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The following **Federal Acquisition Regulation Supplement (“FAR”)** clauses incorporated by reference shall be the most recent clause in effect during Order performance and shall have the same force and effect as if they are given in full text as modified by any notes following the clause citation below.

Seller shall insert the following provisions in lower-tier subcontracts to the extent required for each lower-tier subcontract by the FAR or other applicable law, either verbatim or in substance, and by incorporation-by-reference or otherwise as appropriate.

The terms “Government,” “Contracting Officer,” and equivalent phrases shall mean Buyer except that in the clauses identified below by “*” the clause shall have its original meaning as written in the DFARS:

- 52.203-3 Gratuities*** (The term “agency head” means Buyer.)
- 52.203-6 Restrictions on Subcontractor Sales to the Government*** Alternate I (Applicable if this Order exceeds the FAR 2.101 simplified acquisition threshold on the date of award.)
- 52.203-7 Anti-Kickback Procedures** (Applicable if this Order exceeds the threshold set forth in FAR 3.502-2(i) on the date of award. Includes subparagraph 52.203- 7(c)(5) but excludes paragraph 52.203-7(c)(1).)
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity**
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions*** (Applicable if this Order exceeds threshold specified in FAR 3.808 on the date of award. Includes subparagraph (g).)
- 52.203-13 Contractor Code of Business Ethics and Conduct*** (Applicable if this Order exceeds the threshold specified in FAR 3.1004(a) on the date of award and has a performance period of more than 120 days. Disclosures made under this clause shall be made directly to the Government entities identified in the clause.)
- 52.203-17 Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights** (Applicable if this Order exceeds the simplified acquisition threshold in FAR 2.101.)
- 52.203-19 Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements** (Includes subparagraph 52.203-19(f).)
- 52.204-9 Personal Identity Verification of Contractor Personnel** (Applicable to all subcontractor employees if this order requires routine physical access to a federally controlled facility and/or routine access to a federally controlled information system.)
- 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards** (Applicable if this Order has a value at or above the threshold specified in FAR 4.1403(a) on the date of award.)
- 52.204-21 Basic Safeguarding of Covered Contractor Information Systems** (Applicable if the subcontractor may have Federal contract information residing in or transiting through its information system. Includes subparagraph 52.204-21(c). Does not apply to commercially available off the shelf items.)
- 52.204-23 Prohibition on Contracting for Hardware, Software and Services Developed or Provided by Kaspersky Lab and Other Covered Entities**



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- 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment** (Includes subparagraph FAR 52.204-25 (e), excludes subparagraph 52.204-25(b)(2).)
- 52.209-6 Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment** (Applicable if this Order exceeds the threshold specified in FAR 9.204-2(b) on the date of award and is not a subcontract for Commercial Off the Shelf Items. Includes subparagraph FAR 52.209-6(e).)
- 52.211-5 Material Requirements**
- 52.211-15 Defense Priority and Allocation Requirements** If this Order is a “rated order” as indicated by a DPAS rating elsewhere in this Order, Seller will follow all the provisions of the Defense Priorities and Allocation System Regulations (15 CFR 700).
- 52.219-8 Utilization of Small Business Concerns** (Applicable if this Order offers further subcontracting opportunities.)
- 52.222-1 Notice to the Government of Labor Disputes**
- 52.222-4 Contract Work Hours and Safety Standards Act- Overtime Compensation** (Applicable if this Order exceeds requires employment of laborers or mechanics. In addition, Buyer may withhold or recover from Seller any sums the Contracting Officer withholds or recovers from Buyer because of a violation of a provision of this clause by the Seller or Seller’s subcontractor.)
- 52.222-21 Prohibition of Segregated Facilities** (Applicable if Order is subject to the Equal Opportunity clause of this Order.)
- 52.222-26 Equal Opportunity** (Applicable if this Order is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended.)
- 52.222-35 Equal Opportunity for Veterans** (Applicable if this Order is valued at or above the threshold specified in FAR 22.103(a) on the date of award, unless exempted by rules, regulations, or orders of the Secretary of Labor.)
- 52.222-36 Equal Opportunity for Workers with Disabilities** (Applicable if this Order exceeds the threshold specified in FAR 22.1408(a) on the date of award, unless exempted by the rules, regulations, or orders of the Secretary of Labor.)
- 52.222-37 Employment Reports on Veterans** (Applicable if this Order is valued at or above the threshold specified in FAR 22.1303(a) on the date of subcontract award, unless exempted by rules, regulations, or orders of the Secretary of Labor.)
- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act.** (Applicable if this Order exceeds \$10,000 and will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30,2009. Includes paragraph (f).)
- 52.222-41 Service Contract Labor Standards** (Applicable if this Order is subject to the Service Contract Labor Standards Statute.)
- 52.222–50 Combating Trafficking in Persons** (Applicable to all Orders, including paragraph (l) of clause, except that paragraph (h) will only be applicable if the Order satisfies either of the preconditions set forth in sub-paragraph (l) (1-2)).



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- 52.222-54** **Employment Eligibility Verification** (Applicable if this Order is for (1) commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for the COTS item; (2) has a value of \$3,500; and (3) includes work performed in the United States. Includes paragraph (e).)
- 52.222-55** **Minimum Wages Under Executive Order 13658** (Applicable if this Order is subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute and is to be performed in whole or in part in the United States. Includes paragraph (k).)
- 52.223-11** **Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons** (Applicable if this Order is for goods that may contain or be manufactured with ozone-depleting substances, as defined in paragraph (a).)
- 52.223-18** **Encouraging Contractor Policies to Ban Text Messaging While Driving** (Applicable if this Order exceeds the micro-purchase threshold, as defined in FAR 2.101 on the date of award. Includes paragraph (d).)
- 52.225-13** **Restriction on Certain Foreign Purchases** (Includes paragraph (c).)
- 52.227-1** **Authorization and Consent** (Applicable if this Order exceeds the simplified acquisition threshold, as defined in FAR 2.101 on the date of award. Includes paragraph (b).)
- 52.227-2** **Notice and Assistance Regarding Patent and Copyright Infringement** (Applicable if this Order exceeds the simplified acquisition threshold, as defined in FAR 2.101 on the date of award. Includes paragraph (c).)
- 52.227-3** **Patent Indemnity** (Includes paragraph (c) of clause.)
- 52.227-9** **Refund of Royalties** (Applicable if the amount of royalties reported during negotiation of this Order exceeds \$250.)
- 52.227-10** **Filing of Patent Applications- Classified Subject Matter** (Applicable if this Order covers or is likely to cover classified subject matter.)
- 52.227-11** **Patent Rights- Ownership by the Contractor** (Applicable if this Order is for experimental, developmental or research work by a small business firm or nonprofit organization. Includes paragraph (k). Also applicable if the Order is placed pursuant to a contract or subcontract which contains the clause at DFARS 252.227-7038 (Patent Rights- Ownership by the Contractor (Large Business). References to the Government are not changed and the Seller has all rights and obligations of the Contractor in the clause).
- 52.227-13** **Patent Rights- Ownership by the Government** (Applicable if this Order is for experimental, developmental or research work. References to the Government are not changed and the Seller has all rights and obligations of the Contractor in the clause.)
- 52.227-14** **Rights in Data- General** (The term "Government" does not change in sections (b); (c)(1) and (c)(2). Alternates will be used if/as required by the Prime Contract.)
- 52.227-19** **Commercial Computer Software License***
- 52.228-5** **Insurance- Work on a Government Installation** (Applicable if this Order requires work on a Government installation.)
- 52.232-40** **Providing Accelerated Payment to Small Business Subcontractors.** (Applicable if this Order is placed with Small Business concerns. Includes paragraph (c).)



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- 52.233-3** **Protest After Award** (Under Paragraph (f) of this clause, the Buyer may withhold or recover from Seller any sums the Contracting Officer withholds or recovers from Buyer because of an intentional or negligent misstatement, misrepresentation or mis certification of the Seller which results in a bid protest being sustained.)

- 52.234-1** **Industrial Resources Developed Under Defense Production Act Title III** (Includes paragraph (e).)

- 52.236-13** **Accident Prevention** (Includes paragraph (e)).

- 52.243-1** **Changes -- Fixed Price** (Applicable for Fixed Price Orders for supplies. Apply Alternate I If the Order is for services, other than architect-engineer or other professional services, and no supplies are to be furnished. Apply Alternate II if the Order is for services (other than architect-engineer services, transportation, or research and development) and supplies are to be furnished. Apply Alternate III if the Order is for architect-engineer or other professional services.)


- 52.243-2** **Changes -- Cost-Reimbursement** (Applicable for Cost Reimbursement Orders for supplies. Apply Alternate I if the Order is for services and no supplies are to be furnished. Apply Alternate II if the Order is for services and supplies are to be furnished. Apply Alternate III if the Order is for construction. Apply Alternate V if the Order is for research and development.)

- 52.244-6** **Subcontracts for Commercial Items** (Includes paragraph (d).)

- 52.246-2** **Inspection of Supplies - - Fixed-Price**

- 52.247-63** **Preference for U.S.- Flag Air Carriers** (Applicable if this order may involve international air transportation. Includes paragraph (e).)

- 52.248-1** **Value Engineering**

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The following **Defense Federal Acquisition Regulation Supplement (“DFARS”)** clauses incorporated by reference shall be the most recent clause in effect during subcontract performance and shall have the same force and effect as if they are given in full text as modified by any notes following the clause citation below.

Seller shall insert the following provisions in lower-tier subcontracts to the extent required for each lower-tier subcontract by the DFARS or other applicable law, either verbatim or in substance, and by incorporation-by-reference or otherwise as appropriate.

The terms “Government,” “Contracting Officer,” and equivalent phrases shall mean Buyer except that in the clauses identified below by “*” the clause shall have its original meaning as written in the DFARS:

- 252.203-7002 Requirement to Inform Employees of Whistleblower Rights** (Includes paragraph (b).)
- 252.203-7003 Agency of the Inspector General**
- 252.204-7000 Disclosure of Information** (Includes paragraph (c).)
- 252.204-7009 Limitations on the Use or Disclosure of Third Party Contractor Reported Cyber Incident Information** (Applicable in Orders for services that include support for the Government’s activities related to safeguarding covered defense information and cyber incident reporting. Includes paragraph (c).)
- 252.204-7012 Safeguarding of Unclassified Controlled Technical Information.** (Included if this Order is for operationally critical support (as defined in paragraph (a), or for which performance will involve covered defense information. Includes paragraph (m). Note requirements set forth in paragraph (m)(2).)
- 252.204-7015 Disclosure of Information to Litigation Support Contractors** (Includes paragraph (c).)
- 252.204-7018 Prohibition on the Acquisition of Covered Defense Telecommunications Equipment or Services** (Includes paragraph (e).)
- 252.204-7019 Notice of NIST SP 800-171 DoD Assessment Requirements**
- 252.204-7020 NIST SP 800-171 DoD Assessment Requirements** (Does not pertain to COTS items. (Includes paragraph (g).)
- 252.208-7000 Intent to Furnish Precious Metals as Government Furnished Material**
(Includes paragraph (d).)
- 252.223-7006 Prohibition on Storage, Treatment and Disposal of Toxic or Hazardous Materials-Basic** (Applicable in all Orders that require, may require or permit a subcontractor access to a DoD installation, at any tier. Includes paragraph (d).)
- 252.223-7008 Prohibition of Hexavalent Chromium** (Applicable if this Order is for goods, maintenance and repair services, or construction materials. Includes paragraph (d).)
- 252.223-7999 Ensuring Adequate COVID-19 Safety Protocols for Federal Contracting (Deviation 2021-00009).** (Applicable if this Order is (1) issued in support of a prime contract that was awarded following 11/14/2021, (2) exceeds the simplified acquisition threshold as defined in FAR 2.101 on the date of award, and, (3) is for services, including construction, performed in whole or in part within the U.S. or its outlying areas. Includes paragraph (d).)
- 252.225-7001 Buy American and Balance of Payments Program** (Applies if the prime contract or subcontract under which this Order is placed contains this clause. Applies in lieu of FAR 52.225-1 for Orders placed under DOD programs)



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- 252.225-7009 Restrictions on Acquisition of Certain Articles Containing Specialty Metals** (Paragraphs (a) through (c) and paragraph (e)(2) are applicable if this Order is for items containing specialty metals. Excludes and reserves Paragraphs (d) and (e)(1).)
- 252.225-7012 Preference for Certain Domestic Commodities** Applicable if this Order is placed under a subcontract or prime contract which contains this clause.)
- 252.225-7013 Duty-Free Entry** (Applicable in all Orders for qualifying country components (as defined in paragraph (a)) or non-qualifying country components for which duty is estimated to exceed \$200 per unit. Paragraph (d) is modified to read “The Buyer will obtain from the Government duty-free entry certificates and afford such assistance as appropriate to obtain the duty-free entry of qualifying country supplies for which the shipping documents bear the notation specified in paragraph (e) of this clause.” No change to “Contracting Officer,” “Government,” “prime contractor,” or “prime contract” in paragraphs (c), (d), (h) or (i); except change “Administrative Contracting Officer” and “contract administration office” in paragraph (h) to “Buyer’s Purchasing Representative”.)
- 252.225-7021 Trade Agreements**
- 252.225-7028 Exclusionary Policies and Practices of Foreign Governments**
- 252.225-7033 Waiver of United Kingdom Levies** (Applicable if this Order is placed with a U.K. firm and exceeds or has the potential to exceed \$1 million. Includes paragraph (d).)
- 252.225-7043 Antiterrorism/Force Protection for Defense Contractors Outside of the United States** (Applicable if this Order requires performing or traveling outside the United States under this Order. Not applicable for Seller that is a foreign government, a representative of a foreign government, or a foreign corporation wholly owned by a foreign government.)
- 252.225-7048 Export Controlled Items** (Includes paragraph (e).)
- 252.225-7052 Restriction on the Acquisition of Certain Magnets, Tantalum, and Tungsten** (Applicable if this order exceeds the simplified acquisition threshold in FAR 2.101 and exceptions found in DFARS 225.7018-3 and 225.7018-3 do not apply)
- 252.226-7001 Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns** (Applies if this Order exceeds \$500,000. Includes paragraph (g).)
- 252.227-7015 Technical Data--Commercial Items***
- 252.227-7037 Validation of Restrictive Markings on Technical Data*** (In paragraph (b), “Contractor’s” remains in the clause with a lower case “c.” In paragraphs (c) and (d)(I), “hereunder” is inserted after “subcontract.” In paragraphs (f) and (g)(2)(i), change “this contract” to “the prime contract,” and in paragraph (i), change “a contract” to “the prime contract.” No substitutions for “Government” or “Contracting Officer” are made.)
- 252.229-7011 Reporting of Foreign Taxes – U.S. Assistance Programs** (Applicable if this Order is for commodities (“any materials, articles, supplies, goods or equipment”) that exceed \$500.)
- 252.232-7017 Accelerating Payments to Small Business Subcontractors- Prohibition on Fees and Consideration** (Applicable if this Order is awarded to a small business concern. Includes paragraph (c).)
- 252.234-7004 Cost and Software Data Reporting System** (Applicable for any Order (at any tier) that exceeds \$50 million.)



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- 252.235-7003 Frequency Authorization** (Applicable to Orders for the development, production, construction, testing, or operation of a device for which a radio frequency authorization is required. Includes paragraph (d).)
- 252.237-7010 Prohibition on Interrogation of Detainees by Contractor Personnel** (Applicable if Seller personnel may be required to interact with detainees in the course of their duties.)
- 252.239-7016 Telecommunications Security Equipment, Devices, Techniques, and Services** (Applicable to Orders which require securing telecommunications)
- 252.244-7000 Subcontracts for Commercial Items** (Includes paragraph (d).)
- 252.246-7003 Notification of Potential Safety Issues** (Includes paragraph (f). Applicable in Orders for (i) parts identified as critical safety items; (ii) systems and subsystems, assemblies, and subassemblies integral to a system; or (iii) repair, maintenance, logistics support, or overhaul services for systems and subsystems, assemblies and parts integral to a system. Seller must notify Buyer, the Administrative Contracting Officer, and the Procuring Contracting Officer of non-conformances or deficiencies within the scope of paragraph (b).)
- 252.246-7007 Contractor Counterfeit Electronic Part Detection and Avoidance System*** (Applicable if this Order is for the supply of electronic parts or assemblies containing electronic parts. Paragraphs (a) through (e) apply. Paragraph (b) is rewritten to exclude “disapproval of the purchasing system by the Contracting Officer and/or”. Paragraph (d) is rewritten as follows: Government review and evaluation of the Prime Contractor’s policies and procedures will be accomplished as part of the evaluation of the Prime Contractor’s purchasing system in accordance with DFARS 252.244-7001, Contractor Purchasing System Administration-Basic, or Contractor’s Purchasing System Administration- Alternate 1. The supplier for any Order to which this clause applies is required to provide support and documentation during the conduct of any such Prime Contract evaluation.)
- 252.246-7008 Sources of Electronic Parts** (Applicable if this Order is for electronic parts or assemblies containing electronic parts, unless the Seller is the original manufacturer. Includes paragraph (e).)
- 252.247-7023 Transportation of Supplies by Sea- Basic** (Applicable to Orders that exceed the simplified acquisition threshold in FAR Part 2. Includes paragraph (i). For Orders below the simplified acquisition threshold in FAR Part 2, paragraphs (a) through (e) and paragraph (i) apply.)
- 252.249-7002 Notification of Anticipated Contract Termination or Reduction**