

# FEDERAL ACQUISITION CIRCULAR

January 29, 2013

Number 2005-65  
Effective January 29, 2013  
Looseleaf pages

Federal Acquisition Circular (FAC) 2005-65 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005-65 is effective January 29, 2013 except for Item IV which is effective February 28, 2013.

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**FAC 2005-65 List of Subjects**

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## FAC 2005-65 SUMMARY OF ITEMS

Federal Acquisition Circular (FAC) 2005-65 amends the Federal Acquisition Regulation (FAR) as specified below:

### **Item I—Prohibition on Contracting with Inverted Domestic Corporations (FAR Case 2012-013)**

This rule adopts as final an interim rule implementing section 738 of Division C of the Consolidated Appropriations Act, 2012 (Pub. L. 112-74), which prohibits the award of contracts using Fiscal Year 2012 appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such an entity. The interim rule extended an existing prohibition that applied to use of Fiscal Year 2008 through 2010 funds. Contracting officers are prohibited from awarding contracts using appropriated funds to any foreign incorporated entity that is treated as an inverted domestic corporation or to any subsidiary of such entity, unless an exception applies. This rule will not have any significant economic impact on small businesses because this rule only applies to an offeror that is an inverted domestic corporation and wants to do business with the Government. Small business concerns are unlikely to have been incorporated in the United States and then reincorporated in a tax haven.

**Replacement pages:** None.

### **Item II—Extension of Sunset Dates for Protests of Task and Delivery Orders (FAR Case 2012-007)**

This final rule amends the Federal Acquisition Regulation (FAR) to implement section 825 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011 (Pub. L. 111-383) and section 813 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81). These statutes extend the sunset date for protests against awards of task or delivery orders to September 30, 2016. There is no effect on government automated systems.

**Replacement pages:** None.

### **Item III—Free Trade Agreement-Colombia (FAR Case 2012-012)**

This final rule adopts, with minor change, the interim rule published in the *Federal Register* at 77 FR 27548 on May 10, 2012, to implement the United States-Colombia Trade Promotion Agreement. This Trade Promotion Agreement is a free trade agreement that

provides for mutually non-discriminatory treatment of eligible products and services from Colombia.

The Colombia FTA covers acquisition of supplies and services equal to or exceeding \$77,494. The threshold for the Colombia FTA is \$7,777,000 for construction. The excluded services for the Colombia FTA are the same as for the Bahrain FTA, Dominican Republic–Central American FTA, Chile FTA, NAFTA, Oman FTA, and Peru FTA.

**Replacement pages:** 25.4-1 and 25.4-2.

**Item IV–Unallowability of Costs Associated with Foreign Contractor Excise Tax (FAR Case 2011-011)**

This final rule amends the Federal Acquisition Regulation (FAR) to implement certain requirements of section 301 of the James Zadroga 9/11 Health and Compensation Act of 2010, which imposes a 2 percent excise tax on certain Federal procurement payments to foreign persons. First, the statute disallows the cost of the 2 percent excise tax on certain foreign procurements as part of a payment, or as part of a cost-based negotiated price. Second, the statute stipulates that no funds are to be disbursed to any foreign contractor in order to reimburse the tax imposed. This rule will have a minimal economic impact on small businesses because the 2 percent excise tax is applied only to foreign persons that receive Federal procurement payments pursuant to a contract with the Government of the United States for the provision of goods or services, if the goods are manufactured or produced in, or the services are performed in, a country that is not a party to an international procurement agreement with the United States.

**Replacement pages:** THE 30-DAY PAGES WILL BE POSTED ON THEIR EFFECTIVE DATE OF February 28, 2013.

**Item V–Technical Amendments**

Editorial changes are made at FAR 1.106, 2.000, and 31.205-6.

**Replacement pages:** 1.1-3 thru 1.1-8; 2.1-1 and 2.1-2; and 31.2-9 and 31.2-10

**Looseleaf Only Corrections**

**4.607 [Amended]**

1. Amend section 4.607 by revising paragraph (a).

**Replacement pages:** 4.6-3 and 4.6-4.

**14.201-6 [Amended]**

2. Amend section 14.201-6 by capitalizing "far" in paragraph (a); and capitalizing the title heading in paragraphs (b)-(x).

**Replacement pages:** 14.2-1 thru 14.2-4.

**25.703-2 [Amended]**

3. Amend section 25.703-2 by revising the last sentence of paragraph (a)(2).

**Replacement pages:** 25.7-3 and 25.7-4.

**37.105 [Amended]**

4. Amend section 37.105 by revising the first sentence of paragraph (b).

**Replacement pages:** 37.1-1 and 37.1-2.

**52.204-10 [Amended]**

5. Amend section 52.204-10 by revising the first sentence of paragraph (d)(1).

**Replacement pages:** 52.2-12.3 and 52.2-12.4.

**52.204-13 [Amended]**

6. Amend section 52.204-13 by revising the second sentence of paragraph (b).

**Replacement pages:** 52.2-12.5 and 52.2-12.6.

**52.301 [Amended]**

7. Amend section 52.301 in the table by removing from the provision 52.204-7, under the column, Uniform Contract Format (UCF), the letter "I" and adding "L" in its place; and

8. Removing from the provision 52.225.25, under the column, Uniform Contract Format (UCF) the letter "R" and adding "K", and removing from the columns, Principle Type and/or Purpose of Contract, the letter "R".

**Replacement pages:** 52.3-3 and 52.3-4; and 52.3-17 and 52.3-18.

**Index [Removed]**

9. Amend the Index by removing the entire section.

**Replacement pages:** Index-1 thru Index-144.



## FAC 2005-65 FILING INSTRUCTIONS

**NOTE:** The FAR is segmented by subparts. The FAR page numbers reflect FAR Subparts. For example, "1.1-3" is page 3 of subpart 1.1.

### Remove Pages

1.1-3 thru 1.1-8

2.1-1 and 2.1-2

4.6-3 and 4.6-4

14.2-1 thru 14.2-4

25.4-1 and 25.4-2

25.7-3 and 25.7-4

31.2-9 and 31.2-10

37.1-1 and 37.1-2

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52.3-3 and 52.3-4

52.3-17 and 52.3-18

Index Cover Sheet and  
Index-1 thru Index-144

### Insert Pages

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2.1-1 and 2.1-2

4.6-3 and 4.6-4

14.2-1 thru 14.2-4

25.4-1 and 25.4-2

25.7-3 and 25.7-4

31.2-9 and 31.2-10

37.1-1 and 37.1-2

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52.3-3 and 52.3-4

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**1.104 Applicability.**

The FAR applies to all acquisitions as defined in [Part 2](#) of the FAR, except where expressly excluded.

**1.105 Issuance.****1.105-1 Publication and code arrangement.**

(a) The FAR is published in—

(1) The daily issue of the *Federal Register*;

(2) Cumulated form in the *Code of Federal Regulations* (CFR); and

(3) A separate loose-leaf edition.

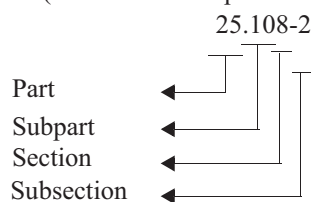
(b) The FAR is issued as Chapter 1 of Title 48, CFR. Subsequent chapters are reserved for agency acquisition regulations that implement or supplement the FAR (see [Subpart 1.3](#)). The CFR Staff will assign chapter numbers to requesting agencies.

(c) Each numbered unit or segment (*e.g.*, part, subpart, section, etc.) of an agency acquisition regulation that is codified in the CFR shall begin with the chapter number. However, the chapter number assigned to the FAR will not be included in the numbered units or segments of the FAR.

**1.105-2 Arrangement of regulations.**

(a) *General.* The FAR is divided into subchapters, parts (each of which covers a separate aspect of acquisition), subparts, sections, and subsections.

(b) *Numbering.* (1) The numbering system permits the discrete identification of every FAR paragraph. The digits to the left of the decimal point represent the part number. The numbers to the right of the decimal point and to the left of the dash represent, in order, the subpart (one or two digits), and the section (two digits). The number to the right of the dash represents the subsection. Subdivisions may be used at the section and subsection level to identify individual paragraphs. The following example illustrates the make-up of a FAR number citation (note that subchapters are not used with citations):



(2) Subdivisions below the section or subsection level consist of parenthetical alpha numerics using the following sequence:

(a)(1)(i)(A)(I)(i)

(c) *References and citations.* (1) Unless otherwise stated, cross-references indicate parts, subparts, sections, subsections, paragraphs, subparagraphs, or subdivisions of this regulation.

(2) This regulation may be referred to as the Federal Acquisition Regulation or the FAR.

(3) Using the FAR coverage at 9.106-4(d) as a typical illustration, reference to the—

(i) Part would be “FAR part 9” outside the FAR and “part 9” within the FAR.

(ii) Subpart would be “FAR subpart 9.1” outside the FAR and “subpart 9.1” within the FAR.

(iii) Section would be “FAR 9.106” outside the FAR and “9.106” within the FAR.

(iv) Subsection would be “FAR 9.106-4” outside the FAR and “9.106-4” within the FAR.

(v) Paragraph would be “FAR 9.106-4(d)” outside the FAR and “9.106-4(d)” within the FAR.

(4) Citations of authority (*e.g.*, statutes or Executive orders) in the FAR shall follow the *Federal Register* form guides.

**1.105-3 Copies.**

Copies of the FAR in *Federal Register*, loose-leaf, CD-ROM, and CFR form may be purchased from the—

Superintendent of Documents  
Government Printing Office (GPO)  
Washington, DC 20402.

**1.106 OMB approval under the Paperwork Reduction Act.**

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) imposes a requirement on Federal agencies to obtain approval from the Office of Management and Budget (OMB) before collecting information from 10 or more members of the public. The information collection and recordkeeping requirements contained in this regulation have been approved by the OMB. The following OMB control numbers apply:

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<a href="#">3.103</a>	9000-0018
<a href="#">3.11</a>	9000-0181
<a href="#">3.4</a>	9000-0003
<a href="#">4.102</a>	9000-0033
<a href="#">4.14</a>	9000-0177
<a href="#">4.5</a>	9000-0137
<a href="#">4.605</a>	9000-0145
<a href="#">4.607</a>	9000-0145
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1.106

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<a href="#">15.2</a>	9000-0037	<a href="#">48</a>	9000-0027
<a href="#">15.209</a>	9000-0034	<a href="#">49</a>	9000-0028
<a href="#">15.4</a>	9000-0013	<a href="#">50</a>	9000-0029
<a href="#">15.404-1(f)</a>	9000-0080	<a href="#">51.1</a>	9000-0031
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<a href="#">52.246-15</a>	9000-0077	<a href="#">SF 1416</a>	9000-0045
<a href="#">52.247-2</a>	9000-0053	<a href="#">SF 1418</a>	9000-0045
<a href="#">52.247-29</a>	9000-0061	<a href="#">SF 1428</a>	9000-0075
<a href="#">52.247-30</a>	9000-0061	<a href="#">SF 1429</a>	9000-0075
<a href="#">52.247-31</a>	9000-0061	<a href="#">SF 1435</a>	9000-0012
<a href="#">52.247-32</a>	9000-0061	<a href="#">SF 1436</a>	9000-0012
<a href="#">52.247-33</a>	9000-0061	<a href="#">SF 1437</a>	9000-0012
<a href="#">52.247-34</a>	9000-0061	<a href="#">SF 1438</a>	9000-0012
<a href="#">52.247-35</a>	9000-0061	<a href="#">SF 1439</a>	9000-0012
<a href="#">52.247-36</a>	9000-0061	<a href="#">SF 1440</a>	9000-0012
<a href="#">52.247-37</a>	9000-0061	<a href="#">SF 1443</a>	9000-0010
<a href="#">52.247-38</a>	9000-0061	<a href="#">SF 1444</a>	9000-0089
<a href="#">52.247-39</a>	9000-0061	<a href="#">SF 1445</a>	9000-0089
<a href="#">52.247-40</a>	9000-0061	<a href="#">SF 1446</a>	9000-0089
<a href="#">52.247-41</a>	9000-0061	<a href="#">OF 312</a>	9000-0150
<a href="#">52.247-42</a>	9000-0061		
<a href="#">52.247-43</a>	9000-0061		
<a href="#">52.247-44</a>	9000-0061		
<a href="#">52.247-48</a>	9000-0061		
<a href="#">52.247-51</a>	9000-0057		
<a href="#">52.247-53</a>	9000-0055		
<a href="#">52.247-57</a>	9000-0061		
<a href="#">52.247-63</a>	9000-0054		
<a href="#">52.247-64</a>	9000-0061		
<a href="#">52.247-68</a>	9000-0056		
<a href="#">52.248-1</a>	9000-0027		
<a href="#">52.248-2</a>	9000-0027		
<a href="#">52.248-3</a>	9000-0027		

### 1.107 Certifications.

In accordance with Section 29 of the Office of Federal Procurement Policy Act ([41 U.S.C. 425](#)), as amended by Section 4301 of the Clinger-Cohen Act of 1996 (Public Law 104-106), a new requirement for a certification by a contractor or offeror may not be included in this chapter unless—

(a) The certification requirement is specifically imposed by statute; or

(b) Written justification for such certification is provided to the Administrator for Federal Procurement Policy by the Federal Acquisition Regulatory Council, and the Administra-

tor approves in writing the inclusion of such certification requirement.

### 1.108 FAR conventions.

The following conventions provide guidance for interpreting the FAR:

(a) *Words and terms.* Definitions in [Part 2](#) apply to the entire regulation unless specifically defined in another part, subpart, section, provision, or clause. Words or terms defined in a specific part, subpart, section, provision, or clause have that meaning when used in that part, subpart, section, provision, or clause. Undefined words retain their common dictionary meaning.

(b) *Delegation of authority.* Each authority is delegable unless specifically stated otherwise (see [1.102-4\(b\)](#)).

(c) *Dollar thresholds.* Unless otherwise specified, a specific dollar threshold for the purpose of applicability is the final anticipated dollar value of the action, including the dollar value of all options. If the action establishes a maximum quantity of supplies or services to be acquired or establishes a ceiling price or establishes the final price to be based on future events, the final anticipated dollar value must be the highest final priced alternative to the Government, including the dollar value of all options.

(d) *Application of FAR changes to solicitations and contracts.* Unless otherwise specified—

(1) FAR changes apply to solicitations issued on or after the effective date of the change;

(2) Contracting officers may, at their discretion, include the FAR changes in solicitations issued before the effective date, provided award of the resulting contract(s) occurs on or after the effective date; and

(3) Contracting officers may, at their discretion, include the changes in any existing contract with appropriate consideration.

(e) *Citations.* When the FAR cites a statute, Executive order, Office of Management and Budget circular, Office of Federal Procurement Policy policy letter, or relevant portion of the *Code of Federal Regulations*, the citation includes all applicable amendments, unless otherwise stated.

(f) *Imperative sentences.* When an imperative sentence directs action, the contracting officer is responsible for the action, unless another party is expressly cited.

### 1.109 Statutory acquisition-related dollar thresholds—adjustment for inflation.

(a) [41 U.S.C. 431a](#) requires that the FAR Council periodically adjust all statutory acquisition-related dollar thresholds in the FAR for inflation, except as provided in paragraph (c) of this section. This adjustment is calculated every 5 years, starting in October 2005, using the Consumer Price Index (CPI) for all-urban consumers, and supersedes the applicability of any other provision of law that provides for the adjustment of such acquisition-related dollar thresholds.

(b) The statute defines an acquisition-related dollar threshold as a dollar threshold that is specified in law as a factor in defining the scope of the applicability of a policy, procedure, requirement, or restriction provided in that law to the procurement of supplies or services by an executive agency, as determined by the FAR Council.

(c) The statute does not permit escalation of acquisition-related dollar thresholds established by the Davis-Bacon Act ([40 U.S.C. 3141](#) through 3144, 3146, and 3147), the Service Contract Act of 1965 ([41 U.S.C. 351, et seq.](#)), or the United States Trade Representative pursuant to the authority of the Trade Agreements Act of 1979 ([19 U.S.C. 2511, et seq.](#)).

(d) A matrix showing calculation of the most recent escalation adjustments of statutory acquisition-related dollar thresholds is available via the Internet at <http://www.regulations.gov> (search FAR Case 2008-024).

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**2.000 Scope of part.**

(a) This part—

(1) Defines words and terms that are frequently used in the FAR;

(2) Provides cross-references to other definitions in the FAR of the same word or term; and

(3) Provides for the incorporation of these definitions in solicitations and contracts by reference.

(b) Other parts, subparts, and sections of this regulation (48 CFR Chapter 1) may define other words or terms and those definitions only apply to the part, subpart, or section where the word or term is defined.

**Subpart 2.1—Definitions**

**2.101 Definitions.**

(a) A word or a term, defined in this section, has the same meaning throughout this regulation (48 CFR Chapter 1), unless—

(1) The context in which the word or term is used clearly requires a different meaning; or

(2) Another FAR part, subpart, or section provides a different definition for the particular part or portion of the part.

(b) If a word or term that is defined in this section is defined differently in another part, subpart, or section of this regulation (48 CFR Chapter 1), the definition in—

(1) This section includes a cross-reference to the other definitions; and

(2) That part, subpart, or section applies to the word or term when used in that part, subpart, or section.

“Acquisition” means the acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated. Acquisition begins at the point when agency needs are established and includes the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contracts, contract financing, contract performance, contract administration, and those technical and management functions directly related to the process of fulfilling agency needs by contract.

“Acquisition planning” means the process by which the efforts of all personnel responsible for an acquisition are coordinated and integrated through a comprehensive plan for fulfilling the agency need in a timely manner and at a reasonable cost. It includes developing the overall strategy for managing the acquisition.

“Adequate evidence” means information sufficient to support the reasonable belief that a particular act or omission has occurred.

“Advisory and assistance services” means those services provided under contract by nongovernmental sources to sup-

port or improve: organizational policy development; decision-making; management and administration; program and/or project management and administration; or R&D activities. It can also mean the furnishing of professional advice or assistance rendered to improve the effectiveness of Federal management processes or procedures (including those of an engineering and technical nature). In rendering the foregoing services, outputs may take the form of information, advice, opinions, alternatives, analyses, evaluations, recommendations, training and the day-to-day aid of support personnel needed for the successful performance of ongoing Federal operations. All advisory and assistance services are classified in one of the following definitional subdivisions:

(1) Management and professional support services, *i.e.*, contractual services that provide assistance, advice or training for the efficient and effective management and operation of organizations, activities (including management and support services for R&D activities), or systems. These services are normally closely related to the basic responsibilities and mission of the agency originating the requirement for the acquisition of services by contract. Included are efforts that support or contribute to improved organization of program management, logistics management, project monitoring and reporting, data collection, budgeting, accounting, performance auditing, and administrative technical support for conferences and training programs.

(2) Studies, analyses and evaluations, *i.e.*, contracted services that provide organized, analytical assessments/evaluations in support of policy development, decision-making, management, or administration. Included are studies in support of R&D activities. Also included are acquisitions of models, methodologies, and related software supporting studies, analyses or evaluations.

(3) Engineering and technical services, *i.e.*, contractual services used to support the program office during the acquisition cycle by providing such services as systems engineering and technical direction (see [9.505-1\(b\)](#)) to ensure the effective operation and maintenance of a weapon system or major system as defined in OMB Circular No. A-109 or to provide direct support of a weapon system that is essential to research, development, production, operation or maintenance of the system.

“Affiliates” means associated business concerns or individuals if, directly or indirectly—

(1) Either one controls or can control the other; or

(2) A third party controls or can control both.

“Agency head” or “head of the agency” means the Secretary, Attorney General, Administrator, Governor, Chairperson, or other chief official of an executive agency, unless otherwise indicated, including any deputy or assistant chief official of an executive agency.

“Alternate” means a substantive variation of a basic provision or clause prescribed for use in a defined circumstance. It

adds wording to, deletes wording from, or substitutes specified wording for a portion of the basic provision or clause. The alternate version of a provision or clause is the basic provision or clause as changed by the addition, deletion, or substitution (see [52.105\(a\)](#)).

“Architect-engineer services,” as defined in [40 U.S.C. 1102](#), means—

(1) Professional services of an architectural or engineering nature, as defined by State law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide those services;

(2) Professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(3) Those other professional services of an architectural or engineering nature, or incidental services, that members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

“Assignment of claims” means the transfer or making over by the contractor to a bank, trust company, or other financing institution, as security for a loan to the contractor, of its right to be paid by the Government for contract performance.

“Assisted acquisition” means a type of interagency acquisition where a servicing agency performs acquisition activities on a requesting agency’s behalf, such as awarding and administering a contract, task order, or delivery order.

“Basic research” means that research directed toward increasing knowledge in science. The primary aim of basic research is a fuller knowledge or understanding of the subject under study, rather than any practical application of that knowledge.

“Best value” means the expected outcome of an acquisition that, in the Government’s estimation, provides the greatest overall benefit in response to the requirement.

“Bid sample” means a product sample required to be submitted by an offeror to show characteristics of the offered products that cannot adequately be described by specifications, purchase descriptions, or the solicitation (*e.g.*, balance, facility of use, or pattern).

“Biobased product” means a product determined by the U.S. Department of Agriculture to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products, including renewable domestic agricultural materials and forestry materials.

“Broad agency announcement” means a general announcement of an agency’s research interest including criteria for selecting proposals and soliciting the participation of all offerors capable of satisfying the Government’s needs (see [6.102\(d\)\(2\)](#)).

“Building or work” means construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not “building” or “work” within the meaning of this definition unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

“Bundled contract” means a contract where the requirements have been consolidated by bundling. (See the definition of bundling.)

“Bundling” means—

(1) Consolidating two or more requirements for supplies or services, previously provided or performed under separate smaller contracts, into a solicitation for a single contract that is likely to be unsuitable for award to a small business concern due to—

(i) The diversity, size, or specialized nature of the elements of the performance specified;

(ii) The aggregate dollar value of the anticipated award;

(iii) The geographical dispersion of the contract performance sites; or

(iv) Any combination of the factors described in paragraphs (1)(i), (ii), and (iii) of this definition.

(2) “Separate smaller contract” as used in this definition, means a contract that has been performed by one or more small business concerns or that was suitable for award to one or more small business concerns.

(3) “Single contract” as used in this definition, includes—

(i) Multiple awards of indefinite-quantity contracts under a single solicitation for the same or similar supplies or services to two or more sources (see FAR [16.504\(c\)](#)); and

(iii) All calls and orders awarded under the indefinite delivery vehicles identified in paragraph (a)(1)(ii) of this section.

(2) The GSA Office of Charge Card Management will provide the Government purchase card data, at a minimum annually, and GSA will incorporate that data into FPDS for reports.

(3) Agencies may use the FPDS Express Reporting capability for consolidated multiple action reports for a vendor when it would be overly burdensome to report each action individually. When used, Express Reporting should be done at least monthly.

(b) *Reporting Other Actions.* Agencies may submit actions other than those listed at paragraph (a)(1) of this section only if they are able to be segregated from FAR-based actions and this is approved in writing by the FPDS Program Office. Prior to the commencement of reporting, agencies must contact the FPDS Program Office if they desire to submit any of the following types of activity:

(1) Transactions at or below the micro-purchase threshold, except as provided in paragraph (a)(2) of this section.

(2) Any non-appropriated fund (NAF) or NAF portion of a contract action using a mix of appropriated and non-appropriated funding.

(3) Lease and supplemental lease agreements for real property.

(4) Grants and entitlement actions.

(c) *Actions not reported.* The following types of contract actions are not to be reported to FPDS:

(1) Imprest fund transactions below the micro-purchase threshold, including those made via the Government purchase card (unless specific agency procedures prescribe reporting these actions).

(2) Orders from GSA stock and the GSA Global Supply Program.

(3) Purchases made at GSA or AbilityOne service stores, as these items stocked for resale have already been reported by GSA.

(4) Purchases made using non-appropriated fund activity cards, chaplain fund cards, individual Government personnel training orders, and Defense Printing orders.

(5) Actions that, pursuant to other authority, will not be entered in FPDS (*e.g.*, reporting of the information would compromise national security).

(6) Contract actions in which the required data would constitute classified information.

(7) Resale activity (*i.e.*, commissary or exchange activity).

(8) Revenue generating arrangements (*i.e.*, concessions).

(9) Training expenditures not issued as orders or contracts.

(10) Interagency agreements other than inter-agency acquisitions required to be reported at 4.606(a)(1).

(11) Letters of obligation used in the A-76 process.

(d) Agencies not subject to the FAR. Agencies not subject to the FAR may be required by other authority (*e.g.*, statute, OMB, or internal agency policy) to report certain information to FPDS. Those agencies not subject to the FAR must first receive approval from the FPDS Program Office prior to reporting to FPDS.

**4.607 Solicitation provisions and contract clause.**

(a) Insert the provision at [52.204-5](#), Women-Owned Business (Other Than Small Business), in all solicitations that—

- (1) Are not set aside for small business concerns;
- (2) Exceed the simplified acquisition threshold; and
- (3) Are for contracts that will be performed in the United States or its outlying areas.

(b) Insert the provision at [52.204-6](#), Data Universal Numbering System Number, in solicitations that do not contain the provision at [52.204-7](#), Central Contractor Registration, or meet a condition at 4.605(c)(2).

(c) Insert the clause at [52.204-12](#), Data Universal Numbering System Number Maintenance, in solicitations and resulting contracts that contain the provision at [52.204-6](#), Data Universal Numbering System.

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**Subpart 14.2—Solicitation of Bids**

**14.201 Preparation of invitations for bids.**

**14.201-1 Uniform contract format.**

(a) Contracting officers shall prepare invitations for bids and contracts using the uniform contract format outlined in [Table 14-1](#) to the maximum practicable extent. The use of the format facilitates preparation of the solicitation and contract as well as reference to, and use of, those documents by bidders and contractors. It need not be used for acquisition of the following:

- (1) Construction (see [Part 36](#)).
- (2) Shipbuilding (including design, construction, and conversion), ship overhaul, and ship repair.
- (3) Subsistence items.
- (4) Supplies or services requiring special contract forms prescribed elsewhere in this regulation that are inconsistent with the uniform contract format.
- (5) Firm-fixed-price or fixed-price with economic price adjustment acquisitions that use the simplified contract format (see [14.201-9](#)).

(b) Information suitable for inclusion in invitations for bids under the uniform contract format shall also be included in invitations for bids not subject to that format if applicable.

(c) Solicitations to which the uniform contract format applies shall include Parts I, II, III, and IV. If any section of the uniform contract format does not apply, the contracting officer should so mark that section in the solicitation. Upon award, the contracting officer shall not physically include Part IV in the resulting contract, but shall retain it in the contract file. (See [14.201\(c\)](#).) Award by acceptance of a bid on the award portion of [Standard Form 33](#), Solicitation, Offer and Award ([SF 33](#)), [Standard Form 26](#), Award/Contract ([SF 26](#)), or [Standard Form 1447](#), Solicitation/Contract ([SF 1447](#)), incorporates Section K, Representations, certifications, and other statements of bidders, in the resultant contract even though not physically attached.

**TABLE 14-1—UNIFORM CONTRACT FORMAT**

SECTION	TITLE
<u>Part I—The Schedule</u>	
A	Solicitation/contract form
B	Supplies or services and prices
C	Description/specifications
D	Packaging and marking
E	Inspection and acceptance
F	Deliveries or performance
G	Contract administration data
H	Special contract requirements
<u>Part II—Contract Clauses</u>	
I	Contract clauses

SECTION	TITLE
<u>Part III—List of Documents, Exhibits, and Other Attachments</u>	
J	List of documents, exhibits, and other attachments
<u>Part IV—Representations and Instructions</u>	
K	Representations, certifications, and other statements of bidders
L	Instructions, conditions, and notices to bidders
M	Evaluation factors for award

**14.201-2 Part I—The Schedule.**

The contracting officer shall prepare the Schedule as follows:

(a) *Section A, Solicitation/contract form.* (1) Prepare the invitation for bids on [SF 33](#), unless otherwise permitted by this regulation. The [SF 33](#) is the first page of the solicitation and includes Section A of the uniform contract format. When the [SF 1447](#) is used as the solicitation document, the information in subdivisions (a)(2)(i) and (a)(2)(iv) of this subsection shall be inserted in block 9 of the [SF 1447](#).

(2) When the [SF 33](#) or [SF 1447](#) is not used, include the following on the first page of the invitation for bids:

- (i) Name, address, and location of issuing activity, including room and building where bids must be submitted.
- (ii) Invitation for bids number.
- (iii) Date of issuance.
- (iv) Time specified for receipt of bids.
- (v) Number of pages.
- (vi) Requisition or other purchase authority.
- (vii) Requirement for bidder to provide its name and complete address, including street, city, county, state, and ZIP code.
- (viii) A statement that bidders should include in the bid the address to which payment should be mailed, if that address is different from that of the bidder.

(b) *Section B, Supplies or services and prices.* Include a brief description of the supplies or services; e.g., item number, national stock number/part number if applicable, title or name identifying the supplies or services, and quantities (see [Part 11](#)). The [SF 33](#) and the [SF 1447](#) may be supplemented as necessary by the [Optional Form 336 \(OF 336\)](#), Continuation Sheet (53.302-336).

(c) *Section C, Description/specifications.* Include any description or specifications needed in addition to Section B to permit full and open competition (see [Part 11](#)).

(d) *Section D, Packaging and marking.* Provide packaging, packing, preservation, and marking requirements, if any.

(e) *Section E, Inspection and acceptance.* Include inspection, acceptance, quality assurance, and reliability requirements (see [Part 46](#), Quality Assurance).



(f) *Section F, Deliveries or performance.* Specify the requirements for time, place, and method of delivery or performance (see [Subpart 11.4](#), Delivery or Performance Schedules).

(g) *Section G, Contract administration data.* Include any required accounting and appropriation data and any required contract administration information or instructions other than those on the solicitation form.

(h) *Section H, Special contract requirements.* Include a clear statement of any special contract requirements that are not included in Section I, Contract clauses, or in other sections of the uniform contract format.

#### 14.201-3 Part II—Contract clauses.

*Section I, Contract clauses.* The contracting officer shall include in this section the clauses required by law or by this regulation and any additional clauses expected to apply to any resulting contract, if these clauses are not required to be included in any other section of the uniform contract format.

#### 14.201-4 Part III—Documents, exhibits, and other attachments.

*Section J, List of documents, exhibits, and other attachments.* The contracting officer shall list the title, date, and number of pages for each attached document.

#### 14.201-5 Part IV—Representations and instructions.

The contracting officer shall prepare the representations and instructions as follows:

(a) *Section K, Representations, certifications, and other statements of bidders.* Include in this section those solicitation provisions that require representations, certifications, or the submission of other information by bidders.

(b) *Section L, Instructions, conditions, and notices to bidders.* Insert in this section solicitation provisions and other information and instructions not required elsewhere to guide bidders. Invitations shall include the time and place for bid openings, and shall advise bidders that bids will be evaluated without discussions (see [52.214-10](#) and, for construction contracts, [52.214-19](#)).

(c) *Section M, Evaluation factors for award.* Identify the price related factors other than the bid price that will be considered in evaluating bids and awarding the contract. See [14.202-8](#).

#### 14.201-6 Solicitation provisions.

(a) The provisions prescribed in this subsection apply to preparation and submission of bids in general. See other FAR parts for provisions and clauses related to specific acquisition requirements.

(b) Insert in all invitations for bids the provisions at—

- (1) [52.214-3](#), Amendments to Invitations For Bids; and
- (2) [52.214-4](#), False Statements in Bids.

(c) Insert the following provisions in invitations for bids:

- (1) [52.214-5](#), Submission of Bids.
- (2) [52.214-6](#), Explanation to Prospective Bidders.
- (3) [52.214-7](#), Late Submissions, Modifications, and

Withdrawals of Bids.

(d) [Reserved]

(e) Insert in all invitations for bids, except those for construction, the provisions at [52.214-10](#), Contract Award—Sealed Bidding.

(f) Insert in invitations for bids to which the uniform contract format applies, the provision at [52.214-12](#), Preparation of Bids.

(g)(1) Insert the provision at [52.214-13](#), Telegraphic Bids, in invitations for bids if the contracting officer decides to authorize telegraphic bids.

(2) Use the provision with its Alternate I in invitations for bids that are for perishable subsistence, and when the contracting officer considers that offerors will be unwilling to provide acceptance periods long enough to allow written confirmation.

(h) Insert the provision at [52.214-14](#), Place of Performance—Sealed Bidding, in invitations for bids except those in which the place of performance is specified by the government.

(i) Insert the provision at [52.214-15](#), Period for Acceptance of Bids, in invitations for bids (IFB's) that are not issued on [SF 33](#) or [SF 1447](#) except IFB's—

(1) For construction work; or

(2) In which the government specifies a minimum acceptance period.

(j) Insert the provision at [52.214-16](#), Minimum Bid Acceptance Period, in invitations for bids, except for construction, if the contracting officer determines that a minimum acceptance period must be specified.

(k) [Reserved]

(l) Insert the provision at [52.214-18](#), Preparation of Bids—Construction, in invitations for bids for construction work.

(m) Insert the provision at [52.214-19](#), Contract Award—Sealed Bidding—Construction, in all invitations for bids for construction work.

(n) [Reserved]

(o)(1) Insert the provision at [52.214-20](#), Bid Samples, in invitations for bids if bid samples are required.

(2) If it appears that the conditions in [14.202-4\(e\)\(1\)](#) will apply and the contracting officer anticipates granting waivers and—

(i) If the nature of the required product does not necessitate limiting the grant of a waiver to a product produced at the same plant in which the product previously acquired or tested was produced, use the provision with its alternate i; or

(ii) If the nature of the required product necessitates limiting the grant of a waiver to a product produced at the

same plant in which the product previously acquired or tested was produced, use the provision with its Alternate II.

(3) See [14.202-4\(e\)\(2\)](#) regarding waiving the requirement for all bidders.

(p)(1) Insert the provision at [52.214-21](#), Descriptive Literature, in invitations for bids if—

(i) Descriptive literature is required to evaluate the technical acceptability of an offered product; and

(ii) The required information will not be readily available unless it is submitted by bidders.

(2) Use the basic clause with its Alternate I if the possibility exists that the contracting officer may waive the requirement for furnishing descriptive literature for a bidder offering a previously supplied product that meets specification requirements of the current solicitation.

(3) See [14.202-5\(d\)\(2\)](#) regarding waiving the requirement for all bidders.

(q) Insert the provision at [52.214-22](#), Evaluation of Bids for Multiple Awards, in invitations for bids if the contracting officer determines that multiple awards might be made if doing so is economically advantageous to the government.

(r) Insert the provision at [52.214-23](#), Late Submissions, Modifications, Revisions, and Withdrawals of Technical Proposals Under Two-Step Sealed Bidding, in solicitations for technical proposals in step one of two-step sealed bidding.

(s) Insert the provision at [52.214-24](#), Multiple Technical Proposals, in solicitations for technical proposals in step one of two-step sealed bidding if the contracting officer permits the submission of multiple technical proposals.

(t) Insert the provision at [52.214-25](#), Step Two of Two-Step Sealed Bidding, in invitations for bids issued under step two of two-step sealed bidding.

(u) [Reserved]

(v) Insert the provision at [52.214-31](#), Facsimile Bids, in solicitations if facsimile bids are authorized (see [14.202-7](#)).

(w) Insert the provision at [52.214-34](#), Submission of Offers in the English Language, in solicitations that include any of the clauses prescribed in [25.1101](#) or [25.1102](#). It may be included in other solicitations when the contracting officer decides that it is necessary.

(x) Insert the provision at [52.214-35](#), Submission of Offers in U.S. Currency, in solicitations that include any of the clauses prescribed in [25.1101](#) or [25.1102](#), unless the contracting officer includes the clause at [52.225-17](#), Evaluation of Foreign Currency Offers, as prescribed in [25.1103\(d\)](#). It may be included in other solicitations when the contracting officer decides that it is necessary.

**14.201-7 Contract clauses.**

(a) When contracting by sealed bidding, the contracting officer shall insert the clause at [52.214-26](#), Audit and Records—Sealed Bidding, in solicitations and contracts as follows:

(1) *Use the basic clause if—*(i) The acquisition will not use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5); and

(ii) The contract amount is expected to exceed the threshold at [15.403-4\(a\)\(1\)](#) for submission of certified cost or pricing data.

(2)(i) If the acquisition will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, use the clause with its Alternate I in all solicitations and contracts.

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

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

(b)(1) When contracting by sealed bidding, the contracting officer shall insert the clause at [52.214-27](#), Price Reduction for Defective Certified Cost or Pricing Data—Modifications—Sealed Bidding, in solicitations and contracts if the contract amount is expected to exceed the threshold for submission of certified cost or pricing data at [15.403-4\(a\)\(1\)](#).

(2) In exceptional cases, the head of the contracting activity may waive the requirement for inclusion of the clause in a contract with a foreign government or agency of that government. The authorizations for the waiver and the reasons for granting it shall be in writing.

(c)(1) When contracting by sealed bidding, the contracting officer shall insert the clause at [52.214-28](#), Subcontractor Certified Cost or Pricing Data—Modifications—Sealed Bidding, in solicitations and contracts if the contract amount is expected to exceed the threshold for submission of certified cost or pricing data at [15.403-4\(a\)\(1\)](#).

(2) In exceptional cases, the head of the contracting activity may waive the requirement for inclusion of the clause in a contract with a foreign government or agency of that government. The authorizations for the waiver and the reasons for granting it shall be in writing.

(d) When contracting by sealed bidding the contracting officer shall insert the clause at [52.214-29](#), Order of Precedence—Sealed Bidding, in solicitations and contracts to which the uniform contract format applies.

**14.201-8 Price related factors.**

The factors set forth in paragraphs (a) through (e) of this subsection may be applicable in evaluation of bids for award and shall be included in the solicitation when applicable. (See [14.201-5\(c\)](#).)

(a) Foreseeable costs or delays to the Government resulting from such factors as differences in inspection, locations of supplies, and transportation. If bids are on an f.o.b. origin basis (see [47.303](#) and [47.305](#)), transportation costs to the designated points shall be considered in determining the lowest cost to the Government.

(b) Changes made, or requested by the bidder, in any of the provisions of the invitation for bids, if the change does not constitute a ground for rejection under [14.404](#).

(c) Advantages or disadvantages to the Government that might result from making more than one award (see [14.201-6\(q\)](#)). The contracting officer shall assume, for the purpose of making multiple awards, that \$500 would be the administrative cost to the Government for issuing and administering each contract awarded under a solicitation. Individual awards shall be for the items or combinations of items that result in the lowest aggregate cost to the Government, including the assumed administrative costs.

(d) Federal, state, and local taxes (see [Part 29](#)).

(e) Origin of supplies, and, if foreign, the application of the Buy American Act or any other prohibition on foreign purchases (see [Part 25](#)).

#### 14.201-9 Simplified contract format.

*Policy.* For firm-fixed-price or fixed-price with economic price adjustment acquisitions of supplies and services, the contracting officer may use the simplified contract format in lieu of the uniform contract format (see [14.201-1](#)). The contracting officer has flexibility in preparation and organization of the simplified contract format. However, the following format should be used to the maximum practical extent:

(a) *Solicitation/contract form.* [Standard Form \(SF\) 1447](#), Solicitation/Contract, shall be used as the first page of the solicitation.

(b) *Contract schedule.* Include the following for each contract line item:

- (1) Contract line item number.
- (2) Description of supplies or services, or data sufficient to identify the requirement.
- (3) Quantity and unit of issue.
- (4) Unit price and amount.
- (5) Packaging and marking requirements.
- (6) Inspection and acceptance, quality assurance, and reliability requirements.
- (7) Place of delivery, performance and delivery dates, period of performance, and f.o.b. point.
- (8) Other item-peculiar information as necessary (e.g., individual fund citations).

(c) *Clauses.* Include the clauses required by this regulation. Additional clauses shall be incorporated only when considered absolutely necessary to the particular acquisition.

(d) *List of documents and attachments.* Include if necessary.

(e) *Representations and instructions—(1) Representations and certifications.* Insert those solicitation provisions that require representations, certifications, or the submission of other information by offerors.

(2) *Instructions, conditions, and notices.* Include the solicitation provisions required by [14.201-6](#). Include any other information/instructions necessary to guide offerors.

(3) *Evaluation factors for award.* Insert all evaluation factors and any significant subfactors for award.

(4) Upon award, the contracting officer need not physically include the provisions in paragraphs (e)(1), (2), and (3) of this subsection in the resulting contract, but shall retain them in the contract file. Award by acceptance of a bid on the award portion of [SF 1447](#) incorporates the representations,

certifications, and other statements of bidders in the resultant contract even though not physically attached.

#### 14.202 General rules for solicitation of bids.

##### 14.202-1 Bidding time.

(a) *Policy.* A reasonable time for prospective bidders to prepare and submit bids shall be allowed in all invitations, consistent with the needs of the Government. (For construction contracts, see [36.213-3\(a\)](#).) A bidding time (i.e., the time between issuance of the solicitation and opening of bids) of at least 30 calendar days shall be provided, when synopsis is required by [Subpart 5.2](#).

(b) *Factors to be considered.* Because of unduly limited bidding time, some potential sources may be precluded from bidding and others may be forced to include amounts for contingencies that, with additional time, could be eliminated. To avoid unduly restricting competition or paying higher-than-necessary prices, consideration shall be given to such factors as the following in establishing a reasonable bidding time:

- (1) Degree of urgency;
- (2) Complexity of requirement;
- (3) Anticipated extent of subcontracting;
- (4) Whether use was made of presolicitation notices;
- (5) Geographic distribution of bidders; and
- (6) Normal transmittal time for both invitations and bids.

##### 14.202-2 Telegraphic bids.

(a) Telegraphic bids and mailgrams shall be authorized only when—

- (1) The date for the opening of bids will not allow bidders sufficient time to submit bids in the prescribed format; or
- (2) Prices are subject to frequent changes.

(b) If telegraphic bids are to be authorized, see [14.201-6\(g\)](#). Unauthorized telegraphic bids shall not be considered (see [14.301\(b\)](#)).

##### 14.202-3 Bid envelopes.

(a) Postage or envelopes bearing “Postage and Fees Paid” indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders.

(b) To provide for ready identification and proper handling of bids, [Optional Form 17](#), Offer Label, may be furnished with each bid set. The form may be obtained from the General Services Administration (see [53.107](#)).

##### 14.202-4 Bid samples.

(a) *Policy.*(1) Bidders shall not be required to furnish bid samples unless there are characteristics of the product that cannot be described adequately in the specification or purchase description.

(2) Bid samples will be used only to determine the responsiveness of the bid and will not be used to determine a bidder’s ability to produce the required items.



## Subpart 25.4—Trade Agreements

### 25.400 Scope of subpart.

(a) This subpart provides policies and procedures applicable to acquisitions that are covered by—

(1) The World Trade Organization Government Procurement Agreement (WTO GPA), as approved by Congress in the Uruguay Round Agreements Act (Public Law 103-465);

(2) Free Trade Agreements (FTA), consisting of—

(i) NAFTA (the North American Free Trade Agreement, as approved by Congress in the North American Free Trade Agreement Implementation Act of 1993 (Pub. L. 103-182) ([19 U.S.C. 3301](#) note));

(ii) Chile FTA (the United States-Chile Free Trade Agreement, as approved by Congress in the United States-Chile Free Trade Agreement Implementation Act of 1993 (Pub. L. 108-77) ([19 U.S.C. 3805](#) note));

(iii) Singapore FTA (the United States-Singapore Free Trade Agreement, as approved by Congress in the United States-Singapore Free Trade Agreement Implementation Act (Pub. L. 108-78) ([19 U.S.C. 3805](#) note));

(iv) Australia FTA (the United States-Australia Free Trade Agreement, as approved by Congress in the United States-Australia Free Trade Agreement Implementation Act (Pub. L. 108-286) ([19 U.S.C. 3805](#) note));

(v) Morocco FTA (The United States-Morocco Free Trade Agreement, as approved by Congress in the United States-Morocco Free Trade Agreement Implementation Act (Pub. L. 108-302) ([19 U.S.C. 3805](#) note));

(vi) CAFTA-DR (The Dominican Republic-Central America-United States Free Trade Agreement, as approved by Congress in the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109-53) ([19 U.S.C. 4001](#) note));

(vii) Bahrain FTA (the United States-Bahrain Free Trade Agreement, as approved by Congress in the United States-Bahrain Free Trade Agreement Implementation Act (Pub. L. 109-169) ([19 U.S.C. 3805](#) note));

(viii) Oman FTA (the United States-Oman Free Trade Agreement, as approved by Congress in the United States-Oman Free Trade Agreement Implementation Act (Pub. L. 109-283) ([19 U.S.C. 3805](#) note));

(ix) Peru FTA (the United States-Peru Trade Promotion Agreement, as approved by Congress in the United States-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110-138) ([19 U.S.C. 3805](#) note));

(x) Korea FTA (the United States-Korea Free Trade Agreement Implementation Act (Pub. L. 112-41) ([19 U.S.C. 3805](#)));

(xi) Colombia FTA (the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112-42) ([19 U.S.C. 3805](#) note)); and

(xii) Panama FTA (the United States-Panama Trade Promotion Agreement Implementation Act (Pub. L. 112-43) ([19 U.S.C. 3805](#) note));

(3) The least developed country designation made by the U.S. Trade Representative, pursuant to the Trade Agreements Act ([19 U.S.C. 2511\(b\)\(4\)](#)), in acquisitions covered by the WTO GPA;

(4) The Caribbean Basin Trade Initiative (CBTI) (determination of the U.S. Trade Representative that end products or construction material granted duty-free entry from countries designated as beneficiaries under the Caribbean Basin Economic Recovery Act ([19 U.S.C. 2701](#), *et seq.*), with the exception of Panama, must be treated as eligible products in acquisitions covered by the WTO GPA);

(5) The Israeli Trade Act (the U.S.-Israel Free Trade Area Agreement, as approved by Congress in the United States-Israel Free Trade Area Implementation Act of 1985 ([19 U.S.C. 2112](#) note)); or

(6) The Agreement on Trade in Civil Aircraft (U.S. Trade Representative waiver of the Buy American Act for signatories of the Agreement on Trade in Civil Aircraft, as implemented in the Trade Agreements Act of 1979 ([19 U.S.C. 2513](#))).

(b) For application of the trade agreements that are unique to individual agencies, see agency regulations.

### 25.401 Exceptions.

(a) This subpart does not apply to—

(1) Acquisitions set aside for small businesses;

(2) Acquisitions of arms, ammunition, or war materials, or purchases indispensable for national security or for national defense purposes;

(3) Acquisitions of end products for resale;

(4) Acquisitions from Federal Prison Industries, Inc., under [Subpart 8.6](#), and acquisitions under [Subpart 8.7](#), Acquisition from Nonprofit Agencies Employing People Who Are Blind or Severely Disabled; and

(5) Other acquisitions not using full and open competition, if authorized by [Subpart 6.2](#) or [6.3](#), when the limitation of competition would preclude use of the procedures of this subpart; or sole source acquisitions justified in accordance with [13.501\(a\)](#).

(b) In the World Trade Organization Government Procurement Agreement (WTO GPA) and each FTA, there is a U.S. schedule that lists services that are excluded from that agreement in acquisitions by the United States. Acquisitions of the following services are excluded from coverage by the U.S. schedule of the WTO GPA or an FTA as indicated in this table:

	THE SERVICE (FEDERAL SERVICE CODES FROM THE FEDERAL PROCUREMENT DATA SYSTEM PRODUCT/ SERVICE CODE MANUAL ARE INDICATED IN PARENTHESES FOR SOME SERVICES.)	WTO GPA AND KOREA FTA	BAHRAIN FTA, CAFTA–DR, CHILE FTA, COLOMBIA FTA, NAFTA, OMAN FTA, PANAMA FTA, AND PERU FTA	SINGAPORE FTA	AUSTRALIA AND MOROCCO FTA
(1)	All services purchased in support of military services overseas.	X	X	X	X
(2)	(i) Automatic data processing (ADP) telecommunications and transmission services (D304), except enhanced ( <i>i.e.</i> , value-added) telecommunications services.	X	X		
	(ii) ADP teleprocessing and timesharing services (D305), telecommunications network management services (D316), automated news services, data services or other information services (D317), and other ADP and telecommunications services (D399).	X	X		
	(iii) Basic telecommunications network services ( <i>i.e.</i> , voice telephone services, packet-switched data transmission services, circuit-switched data transmission services, telex services, telegraph services, facsimile services, and private leased circuit services, but not information services, as defined in <a href="#">47 U.S.C. 153(20)</a> ).	*	*	X	X
(3)	Dredging.	X	X	X	X
(4)	(i) Operation and management contracts of certain Government or privately owned facilities used for Government purposes, including Federally Funded Research and Development Centers.	X		X	
	(ii) Operation of all Department of Defense, Department of Energy, or the National Aeronautics and Space Administration facilities; and all Government-owned research and development facilities or Government-owned environmental laboratories.	**	X	**	X
(5)	Research and development.	X	X	X	X
(6)	Transportation services (including launching services, but not including travel agent services).	X	X	X	X
(7)	Utility services.	X	X	X	X
(8)	Maintenance, repair, modification, rebuilding and installation of equipment related to ships (J019).		X		X
(9)	Nonnuclear ship repair (J998).		X		X

\* Note 1. Acquisitions of the services listed at (2)(iii) of this table are a subset of the excluded services at (2)(i) and (ii), and are therefore not covered under the WTO GPA.

\*\* Note 2. Acquisitions of the services listed at (4)(ii) of this table are a subset of the excluded services at (4)(i), and are therefore not covered under the WTO GPA.

imposed under section 5 of the Iran Sanctions Act. Such activities, which are described in detail in section 5 of the Iran Sanctions Act, relate to the energy sector of Iran and development by Iran of weapons of mass destruction or other military capabilities.

(2) *Certification relating to transactions with Iran's Revolutionary Guard Corps.* As required by section 6(b)(1)(B) of the Iran Sanctions Act (50 U.S.C. 1701 note), unless an exception applies in accordance with paragraph (c) of this subsection, or a waiver is granted in accordance with 25.703-4, each offeror must certify that the offeror, and any person owned or controlled by the offeror, does not knowingly engage in any significant transaction (i.e., a transaction that exceeds \$3,000) with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (see OFAC's Specially Designated Nationals and Blocked Persons List at

<http://www.treasury.gov/ofac/downloads/t11sdsn.pdf>).

(b) *Remedies.* Upon the determination of a false certification under paragraph (a) of this subsection, the agency shall take one or more of the following actions:

(1) The contracting officer terminates the contract in accordance with procedures in part 49, or for commercial items, see 12.403.

(2) The suspending official suspends the contractor in accordance with the procedures in subpart 9.4.

(3) The debarring official debars the contractor for a period of at least two years in accordance with the procedures in subpart 9.4.

(c) *Exception for trade agreements.* The certification requirements of paragraph (a) of this subsection do not apply if the acquisition is subject to trade agreements and the offeror certifies that all the offered products are designated country end products or designated country construction material (see subpart 25.4).

### **25.703-3 Prohibition on contracting with entities that export sensitive technology to Iran.**

(a) The head of an executive agency may not enter into or extend a contract for the procurement of goods or services with a person that exports certain sensitive technology to Iran, as determined by the President and listed on the Excluded Parties List System via <https://www.acquisition.gov> (22 U.S.C. 8515).

(b) Each offeror must represent that it does not export any sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran.

(c) *Exception for trade agreements.* The representation requirement of paragraph (b) of this subsection does not apply if the acquisition is subject to trade agreements and the offeror

certifies that all the offered products are designated country end products or designated country construction material (see subpart 25.4).

### **25.703-4 Waiver.**

(a) An agency or contractor seeking a waiver of the requirements of 25.703-2 or 25.703-3, consistent with section 6(b)(5) of the Iran Sanctions Act or 22 U.S.C. 8551(b), respectively, and the Presidential Memorandum of September 23, 2010 (75 FR 67025), shall submit the request to the Office of Federal Procurement Policy, allowing sufficient time for review and approval.

(b) Agencies may request a waiver on an individual or class basis; however, waivers are not indefinite and can be cancelled, if warranted.

(1) A class waiver may be requested only when the class of supplies or equipment is not available from any other source and it is in the national interest.

(2) Prior to submitting the waiver request, the request must be reviewed and cleared by the agency head.

(c) In general, all waiver requests should include the following information:

(1) Agency name, complete mailing address, and point of contact name, telephone number, and e-mail address.

(2) Offeror's name, complete mailing address, and point of contact name, telephone number, and e-mail address.

(3) Description/nature of product or service.

(4) The total cost and length of the contract.

(5) Justification, with market research demonstrating that no other offeror can provide the product or service and stating why the product or service must be procured from this offeror.

(i) If the offeror exports sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran, provide rationale why it is in the national interest for the President to waive the prohibition on contracting with this offeror, as required by 22 U.S.C. 8551(b).

(ii) If the offeror conducts activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act or engages in any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act, provide rationale why it is essential to the national security interests of the United States for the President to waive the prohibition on contracting with this offeror, as required by section 6(b)(5) of the Iran Sanctions Act.

(6) Documentation regarding the offeror's past performance and integrity (see the Past Performance Information Retrieval System and the Federal Awardee Performance Information and Integrity System at [www.ppirs.gov](http://www.ppirs.gov), and any other relevant information).

(7) Information regarding the offeror's relationship or connection with other firms that—

(i) Export sensitive technology to the government of Iran or any entities or individuals owned or controlled by, or acting on behalf or at the direction of, the government of Iran;

(ii) Conduct activities for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(iii) Conduct any transaction that exceeds \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act.

(8) *Describe*—

(i) The sensitive technology and the entity or individual to which it was exported (*i.e.*, the government of Iran or an entity or individual owned or controlled by, or acting on behalf or at the direction of, the government of Iran);

(ii) The activities in which the offeror is engaged for which sanctions may be imposed under section 5 of the Iran Sanctions Act; or

(iii) The transactions that exceed \$3,000 with Iran's Revolutionary Guard Corps or any of its officials, agents, or affiliates, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act.

efits are allowable to the extent that they are reasonable and are required by law, employer-employee agreement, or an established policy of the contractor.

(2) That portion of the cost of company-furnished automobiles that relates to personal use by employees (including transportation to and from work) is unallowable regardless of whether the cost is reported as taxable income to the employees (see [31.205-46\(d\)](#)).

(n) *Employee rebate and purchase discount plans.* Rebates and purchase discounts, in whatever form, granted to employees on products or services produced by the contractor or affiliates are unallowable.

(o) *Postretirement benefits other than pensions (PRB).* (1) PRB covers all benefits, other than cash benefits and life insurance benefits paid by pension plans, provided to employees, their beneficiaries, and covered dependents during the period following the employees' retirement. Benefits encompassed include, but are not limited to, postretirement health care; life insurance provided outside a pension plan; and other welfare benefits such as tuition assistance, day care, legal services, and housing subsidies provided after retirement.

(2) To be allowable, PRB costs shall be incurred pursuant to law, employer-employee agreement, or an established policy of the contractor, and shall comply with paragraphs (o)(2)(i), (ii), or (iii) of this subsection.

(i) *Pay-as-you-go.* PRB costs are not accrued during the working lives of employees. Costs are assigned to the period in which—

(A) Benefits are actually provided; or

(B) The costs are paid to an insurer, provider, or other recipient for current year benefits or premiums.

(ii) *Terminal funding.* PRB costs are not accrued during the working lives of the employees.

(A) Terminal funding occurs when the entire PRB liability is paid in a lump sum upon the termination of employees (or upon conversion to such a terminal-funded plan) to an insurer or trustee to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees.

(B) Terminal funded costs shall be amortized over a period of 15 years.

(iii) *Accrual basis.* PRB costs are accrued during the working lives of employees. Accrued PRB costs shall comply with the following:

(A) Be measured and assigned in accordance with one of the following two methods:

(1) Generally accepted accounting principles, provided the portion of PRB costs attributable to the transition obligation assigned to the current year that is in excess of the amount assignable under the delayed recognition methodology described in paragraphs 112 and 113 of Financial Accounting Standards Board Statement 106 is unallowable. The transition obligation is defined in Statement 106, paragraph 110; or

(2) Contributions to a welfare benefit fund determined in accordance with applicable Internal Revenue

Code. Allowable PRB costs based on such contributions shall—

(i) Be measured using reasonable actuarial assumptions, which shall include a health care inflation assumption unless prohibited by the Internal Revenue Code provisions governing welfare benefit funds;

(ii) Be assigned to accounting periods on the basis of the average working lives of active employees covered by the PRB plan or a 15 year period, whichever period is longer. However, if the plan is comprised of inactive participants only, the cost shall be spread over the average future life expectancy of the participants; and

(iii) Exclude Federal income taxes, whether incurred by the fund or the contractor (including any increase in PRB costs associated with such taxes), unless the fund holding the plan assets is tax-exempt under the provisions of 26 USC §501(c).

(B) Be paid to an insurer or trustee to establish and maintain a fund or reserve for the sole purpose of providing PRB to retirees. The assets shall be segregated in the trust, or otherwise effectively restricted, so that they cannot be used by the employer for other purposes.

(C) Be calculated in accordance with generally accepted actuarial principles and practices as promulgated by the Actuarial Standards Board.

(D) Eliminate from costs of current and future periods the accumulated value of any prior period costs that were unallowable in accordance with paragraph (o)(3) of this section, adjusted for interest under paragraph (o)(4) of this section.

(E) Calculate the unfunded actuarial liability (unfunded accumulated postretirement benefit obligation) using the market (fair) value of assets that have been accumulated by funding costs assigned to prior periods for contract accounting purposes.

(F) Recognize as a prepayment credit the market (fair) value of assets that were accumulated by deposits or contributions that were not used to fund costs assigned to previous periods for contract accounting purposes.

(G) Comply with the following when changing from one accrual accounting method to another: the contractor shall—

(1) Treat the change in the unfunded actuarial liability (unfunded accumulated postretirement benefit obligation) as a gain or loss; and

(2) Present an analysis demonstrating that all costs assigned to prior periods have been accounted for in accordance with paragraphs (o)(2)(iii)(D), (E), and (F) of this section to ensure that no duplicate recovery of costs exists. Any duplicate recovery of costs due to the change from one method to another is unallowable. The analysis and new accrual accounting method may be a subject appropriate for an advance agreement in accordance with [31.109](#).

(3) To be allowable, PRB costs must be funded by the time set for filing the Federal income tax return or any extension thereof, or paid to an insurer, provider, or other recipient



by the time set for filing the Federal income tax return or extension thereof. PRB costs assigned to the current year, but not funded, paid or otherwise liquidated by the tax return due date as extended are not allowable in any subsequent year.

(4) Increased PRB costs caused by delay in funding beyond 30 days after each quarter of the year to which they are assignable are unallowable.

(5) The Government shall receive an equitable share of any amount of previously funded PRB costs which revert or inure to the contractor. Such equitable share shall reflect the Government's previous participation in PRB costs through those contracts for which certified cost or pricing data were required or which were subject to [Subpart 31.2](#).

(p) *Limitation on allowability of compensation for certain contractor personnel.*(1) Costs incurred after January 1, 1998, for compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, Office of Federal Procurement Policy (OFPP), under Section 39 of the OFPP Act ([41 U.S.C. 435](#)) are unallowable ([10 U.S.C. 2324\(e\)\(1\)\(P\)](#) and [41 U.S.C. 256\(e\)\(1\)\(P\)](#)). This limitation is the sole statutory limitation on allowable senior executive compensation costs incurred after January 1, 1998, under new or previously existing contracts. This limitation applies whether or not the affected contracts were previously subject to a statutory limitation on such costs. (Note that pursuant to Section 804 of Pub. L. 105-261, the definition of "senior executive" in (p)(2)(ii) has been changed for compensation costs incurred after January 1, 1999.)

(2) As used in this paragraph—

(i) "Compensation" means the total amount of wages, salary, bonuses, deferred compensation (see paragraph (k) of this subsection), and employer contributions to defined contribution pension plans (see paragraphs (j)(4) and (q) of this subsection), for the fiscal year, whether paid, earned, or otherwise accruing, as recorded in the contractor's cost accounting records for the fiscal year.

(ii) "Senior executive" means—

(A) Prior to January 2, 1999—

(1) The Chief Executive Officer (CEO) or any individual acting in a similar capacity at the contractor's headquarters;

(2) The four most highly compensated employees in management positions at the contractor's headquarters, other than the CEO; and

(3) If the contractor has intermediate home offices or segments that report directly to the contractor's headquarters, the five most highly compensated employees in management positions at each such intermediate home office or segment.

(B) Effective January 2, 1999, the five most highly compensated employees in management positions at each home office and each segment of the contractor, whether or not the home office or segment reports directly to the contractor's headquarters.

(iii) "Fiscal year" means the fiscal year established by the contractor for accounting purposes.

(iv) "Contractor's headquarters" means the highest organizational level from which executive compensation costs are allocated to Government contracts.

(q) *Employee stock ownership plans (ESOP).*(1) An ESOP is a stock bonus plan designed to invest primarily in the stock of the employer corporation. The contractor's contributions to an Employee Stock Ownership Trust (ESOT) may be in the form of cash, stock, or property.

(2) Costs of ESOPs are allowable subject to the following conditions:

(i) The contractor measures, assigns, and allocates costs in accordance with 48 CFR 9904.415.

(ii) Contributions by the contractor in any one year that exceed the deductibility limits of the Internal Revenue Code for that year are unallowable.

(iii) When the contribution is in the form of stock, the value of the stock contribution is limited to the fair market value of the stock on the date that title is effectively transferred to the trust.

(iv) When the contribution is in the form of cash—

(A) Stock purchases by the ESOT in excess of fair market value are unallowable; and

(B) When stock purchases are in excess of fair market value, the contractor shall credit the amount of the excess to the same indirect cost pools that were charged for the ESOP contributions in the year in which the stock purchase occurs. However, when the trust purchases the stock with borrowed funds which will be repaid over a period of years by cash contributions from the contractor to the trust, the contractor shall credit the excess price over fair market value to the indirect cost pools pro rata over the period of years during which the contractor contributes the cash used by the trust to repay the loan.

(v) When the fair market value of unissued stock or stock of a closely held corporation is not readily determinable, the valuation will be made on a case-by-case basis taking into consideration the guidelines for valuation used by the IRS.

### 31.205-7 Contingencies.

(a) "Contingency," as used in this subpart, means a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) Costs for contingencies are generally unallowable for historical costing purposes because such costing deals with costs incurred and recorded on the contractor's books. However, in some cases, as for example, terminations, a contingency factor may be recognized when it is applicable to a past period to give recognition to minor unsettled factors in the interest of expediting settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those that may arise from presently known and existing conditions, the effects of which are foreseeable

**37.000 Scope of part.**

This part prescribes policy and procedures that are specific to the acquisition and management of services by contract. This part applies to all contracts and orders for services regardless of the contract type or kind of service being acquired. This part requires the use of performance-based acquisitions for services to the maximum extent practicable and prescribes policies and procedures for use of performance-based acquisition methods (see [Subpart 37.6](#)). Additional guidance for research and development services is in [Part 35](#); architect-engineering services is in [Part 36](#); information technology is in [Part 39](#); and transportation services is in [Part 47](#). [Parts 35, 36, 39, and 47](#) take precedence over this part in the event of inconsistencies. This part includes, but is not limited to, contracts for services to which the Service Contract Act of 1965, as amended, applies (see [Subpart 22.10](#)).

**Subpart 37.1—Service Contracts—General****37.101 Definitions.**

As used in this part—

“Child care services” means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

“Nonpersonal services contract” means a contract under which the personnel rendering the services are not subject, either by the contract’s terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the Government and its employees.

“Service contract” means a contract that directly engages the time and effort of a contractor whose primary purpose is to perform an identifiable task rather than to furnish an end item of supply. A service contract may be either a nonpersonal or personal contract. It can also cover services performed by either professional or nonprofessional personnel whether on an individual or organizational basis. Some of the areas in which service contracts are found include the following:

- (1) Maintenance, overhaul, repair, servicing, rehabilitation, salvage, modernization, or modification of supplies, systems, or equipment.
- (2) Routine recurring maintenance of real property.
- (3) Housekeeping and base services.
- (4) Advisory and assistance services.
- (5) Operation of Government-owned equipment, real property, and systems.
- (6) Communications services.
- (7) Architect-Engineering (see [Subpart 36.6](#)).
- (8) Transportation and related services (see [Part 47](#)).
- (9) Research and development (see [Part 35](#)).

**37.102 Policy.**

(a) Performance-based acquisition (see [Subpart 37.6](#)) is the preferred method for acquiring services (Public Law 106-398, section 821). When acquiring services, including those acquired under supply contracts or orders, agencies must—

(1) Use performance-based acquisition methods to the maximum extent practicable, except for—

- (i) Architect-engineer services acquired in accordance with [40 U.S.C. 1101 et seq.](#);
  - (ii) Construction (see [Part 36](#));
  - (iii) Utility services (see [Part 41](#)); or
  - (iv) Services that are incidental to supply purchases;
- and

(2) Use the following order of precedence (Public Law 106-398, section 821(a));

- (i) A firm-fixed price performance-based contract or task order.
- (ii) A performance-based contract or task order that is not firm-fixed price.
- (iii) A contract or task order that is not performance-based.

(b) Agencies shall generally rely on the private sector for commercial services (see OMB Circular No. A-76, Performance of Commercial Activities and [Subpart 7.3](#)).

(c) Agencies shall not award a contract for the performance of an inherently governmental function (see [Subpart 7.5](#)).

(d) Non-personal service contracts are proper under general contracting authority.

(e) Agency program officials are responsible for accurately describing the need to be filled, or problem to be resolved, through service contracting in a manner that ensures full understanding and responsive performance by contractors and, in so doing, should obtain assistance from contracting officials, as needed. To the maximum extent practicable, the program officials shall describe the need to be filled using performance-based acquisition methods.

(f) Agencies shall establish effective management practices in accordance with Office of Federal Procurement Policy (OFPP) Policy Letter 93-1, Management Oversight of Service Contracting, to prevent fraud, waste, and abuse in service contracting.

(g) Services are to be obtained in the most cost-effective manner, without barriers to full and open competition, and free of any potential conflicts of interest.

(h) Agencies shall ensure that sufficiently trained and experienced officials are available within the agency to manage and oversee the contract administration function.

(i) Agencies shall ensure that service contracts that require the delivery, use, or furnishing of products are consistent with [part 23](#).

**37.103 Contracting officer responsibility.**

(a) The contracting officer is responsible for ensuring that a proposed contract for services is proper. For this purpose the contracting officer shall—

(1) Determine whether the proposed service is for a personal or nonpersonal services contract using the definitions at [2.101](#) and [37.101](#) and the guidelines in [37.104](#);

(2) In doubtful cases, obtain the review of legal counsel; and

(3) Document the file (except as provided in paragraph (b) of this section) with—

(i) The opinion of legal counsel, if any,

(ii) A memorandum of the facts and rationale supporting the conclusion that the contract does not violate the provisions in [37.104\(b\)](#), and

(iii) Any further documentation that the contracting agency may require.

(b) Nonpersonal services contracts are exempt from the requirements of paragraph (a)(3) of this section.

(c) Ensure that performance-based acquisition methods are used to the maximum extent practicable when acquiring services.

(d) Ensure that contracts for child care services include requirements for criminal history background checks on employees who will perform child care services under the contract in accordance with [42 U.S.C. 13041](#), as amended, and agency procedures.

**37.104 Personal services contracts.**

(a) A personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized acquisition of the services by contract.

(b) Agencies shall not award personal services contracts unless specifically authorized by statute (*e.g.*, [5 U.S.C.3109](#)) to do so.

(c)(1) An employer-employee relationship under a service contract occurs when, as a result of (i) the contract's terms or (ii) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee. However, giving an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that converts an individual who is an independent contractor (such as a contractor employee) into a Government employee.

(2) Each contract arrangement must be judged in the light of its own facts and circumstances, the key question always being: Will the Government exercise relatively continuous supervision and control over the contractor personnel performing the contract. The sporadic, unauthorized supervision of only one of a large number of contractor employees

might reasonably be considered not relevant, while relatively continuous Government supervision of a substantial number of contractor employees would have to be taken strongly into account (see (d) of this section).

(d) The following descriptive elements should be used as a guide in assessing whether or not a proposed contract is personal in nature:

(1) Performance on site.

(2) Principal tools and equipment furnished by the Government.

(3) Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.

(4) Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.

(5) The need for the type of service provided can reasonably be expected to last beyond 1 year.

(6) The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly, Government direction or supervision of contractor employees in order to—

(i) Adequately protect the Government's interest;

(ii) Retain control of the function involved; or

(iii) Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.

(e) When specific statutory authority for a personal service contract is cited, obtain the review and opinion of legal counsel.

(f) Personal services contracts for the services of individual experts or consultants are limited by the Classification Act. In addition, the Office of Personnel Management has established requirements which apply in acquiring the personal services of experts or consultants in this manner (*e.g.*, benefits, taxes, conflicts of interest). Therefore, the contracting officer shall effect necessary coordination with the cognizant civilian personnel office.

**37.105 Competition in service contracting.**

(a) Unless otherwise provided by statute, contracts for services shall be awarded through sealed bidding whenever the conditions in [6.401\(a\)](#) are met, (except see [6.401\(b\)](#)).

(b) The provisions of statute and [Part 6](#) of this regulation requiring competition apply fully to service contracts. The method of contracting used to provide for competition may vary with the type of service being acquired and may not necessarily be limited to price competition.

**37.106 Funding and term of service contracts.**

(a) When contracts for services are funded by annual appropriations, the term of contracts so funded shall not extend beyond the end of the fiscal year of the appropriation except when authorized by law (see paragraph (b) of this section for certain service contracts, [32.703-2](#) for contracts con-



(c) Nothing in this clause requires the disclosure of classified information

(d)(1) *Executive compensation of the prime contractor.* As a part of its annual registration requirement in the Central Contractor Registration (CCR) database (FAR clause [52.204-7](#)), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor’s preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(2) *First-tier subcontract information.* Unless otherwise directed by the contracting officer, or as provided in paragraph (h) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, the Contractor shall report the following information at <http://www.fsrs.gov> for that first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsrs.gov> to report the data.)

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor’s physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor’s primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) *Executive compensation of the first-tier subcontractor.* Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for that first-tier subcontractor for the first-tier subcontractor’s preceding completed fiscal year at <http://www.fsrs.gov>, if—

(i) In the subcontractor’s preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$25,000 to avoid the reporting requirements in paragraph (d).

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSRS database at <http://www.fsrs.gov> will be pre-populated with some information from CCR and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting officer. If the CCR database information is incorrect, the contractor is responsible for correcting this information.

(End of clause)

**52.204-11 American Recovery and Reinvestment Act—  
Reporting Requirements.**

As prescribed in [4.1502](#), insert the following clause:

AMERICAN RECOVERY AND REINVESTMENT ACT—  
REPORTING REQUIREMENTS (JUL 2010)

(a) *Definitions.* For definitions related to this clause (e.g., contract, first-tier subcontract, total compensation etc.) see the Frequently Asked Questions (FAQs) available at [http://www.whitehouse.gov/omb/recovery\\_faqs\\_contractors](http://www.whitehouse.gov/omb/recovery_faqs_contractors). These FAQs are also linked under <http://www.FederalReporting.gov>.

(b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

(c) Reports from the Contractor for all work funded, in whole or in part, by the Recovery Act, are due no later than the 10th day following the end of each calendar quarter. The Contractor shall review the Frequently Asked Questions (FAQs) for Federal Contractors before each reporting cycle and prior to submitting each quarterly report as the FAQs may be updated from time-to-time. The first report is due no later than the 10th day after the end of the calendar quarter in which the Contractor received the award. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter. For information on when the Contractor shall submit its final report, see [http://www.whitehouse.gov/omb/recovery\\_faqs\\_contractors](http://www.whitehouse.gov/omb/recovery_faqs_contractors).

(d) The Contractor shall report the following information, using the online reporting tool available at [www.FederalReporting.gov](http://www.FederalReporting.gov).

(1) The Government contract and order number, as applicable.

(2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government's on-line reporting tool.

(3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.

(4) Program or project title, if any.

(5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.

(6) An assessment of the contractor's progress towards the completion of the overall purpose and expected outcomes or results of the contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.

(7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and address the impact on the Contractor's and first-tier subcontractors' workforce for all first-tier subcontracts valued at \$25,000 or more. At a minimum, the Contractor shall provide—

(i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR [2.101](#)). This description may rely on job titles, broader labor categories, or the Contractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(ii) An estimate of the number of jobs created and jobs retained by the prime Contractor and all first-tier subcontracts valued at \$25,000 or more, in the United States and outlying areas. A job cannot be reported as both created and retained. See an example of how to calculate the number of jobs at [http://www.whitehouse.gov/omb/recovery\\_faqs\\_contractors](http://www.whitehouse.gov/omb/recovery_faqs_contractors).

(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986.

(9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

(10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is valued at \$25,000 or more and not subject to reporting under paragraph 9, the Contractor

shall require the subcontractor to provide the information described in paragraphs (d)(10)(i), (ix), (x), (xi), and (xii) of this section to the Contractor for the purposes of the quarterly report. The Contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act. The Contractor shall provide detailed information on these first-tier subcontracts as follows:

- (i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.
- (ii) Name of the subcontractor.
- (iii) Amount of the subcontract award.
- (iv) Date of the subcontract award.
- (v) The applicable North American Industry Classification System (NAICS) code.
- (vi) Funding agency.
- (vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.
- (viii) Subcontract number (the contract number assigned by the prime contractor).
- (ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
- (x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.
- (xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—
  - (A) In the subcontractor's preceding fiscal year, the subcontractor received—
    - (1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
    - (2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and
  - (B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986.
- (xii) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and address the impact on the subcontractor's workforce. At a minimum, the subcontractor shall provide—
  - (A) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR [2.101](#)). This description may rely on job

titles, broader labor categories, or the subcontractor's existing practice for describing jobs as long as the terms used are widely understood and describe the general nature of the work; and

(B) An estimate of the number of jobs created and jobs retained by the subcontractor in the United States and outlying areas. A job cannot be reported as both created and retained. See an example of how to calculate the number of jobs at [http://www.whitehouse.gov/omb/recovery\\_faqs\\_contractors](http://www.whitehouse.gov/omb/recovery_faqs_contractors).

(End of clause)

#### 52.204-12 Data Universal Numbering System Number Maintenance.

As prescribed in [4.607\(c\)](#), insert the following clause:

DATA UNIVERSAL NUMBERING SYSTEM NUMBER  
MAINTENANCE (DEC 2012)

(a) *Definition.* "Data Universal Numbering System (DUNS) number," as used in this clause, means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal contractors.

(b) The Contractor shall ensure that the DUNS number is maintained with Dun & Bradstreet throughout the life of the contract. The Contractor shall communicate any change to the DUNS number to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the DUNS number does not necessarily require a novation be accomplished. Dun & Bradstreet may be contacted—

(1) Via the internet at <http://fedgov.dnb.com/webform> or if the Contractor does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(2) If located outside the United States, by contacting the local Dun and Bradstreet office.

(End of clause)

#### 52.204-13 Central Contractor Registration Maintenance.

As prescribed in [4.1105\(b\)](#), use the following clause:

CENTRAL CONTRACTOR REGISTRATION MAINTENANCE (DEC  
2012)

(a) *Definitions.* As used in this clause—  
"Central Contractor Registration (CCR) database" means the primary Government repository for Contractor information required for the conduct of business with the Government.

"Data Universal Numbering System (DUNS) number" means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities, which is used as the identification number for Federal contractors.

“Data Universal Numbering System+4 (DUNS+4) number” means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at subpart [32.11](#)) for the same concern.

“Registered in the CCR database” means that

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record “Active”. The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government’s reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis, from the date of initial registration or subsequent updates, its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(c) (1) (i) If a Contractor has legally changed its business name, *doing business as* name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in subpart [42.12](#), the Contractor shall provide the responsible Contracting Officer a minimum of one business day’s written notification of its intention to—

(A) Change the name in the CCR database;

(B) Comply with the requirements of subpart [42.12](#) of the FAR; and

(C) Agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor shall provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (c)(1)(i) of this clause, or fails to perform the agreement at paragraph (c)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR subpart [32.8](#), Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor’s CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the EFT clause of this contract.

(3) The Contractor shall ensure that the DUNS number is maintained with Dun & Bradstreet throughout the life of the contract. The Contractor shall communicate any change to the DUNS number to the Contracting Officer within 30 days after the change, so an appropriate modification can be issued to update the data on the contract. A change in the DUNS number does not necessarily require a novation be accomplished. Dun & Bradstreet may be contacted

(i) Via the internet at <http://fedgov.dnb.com/webform> or if the contractor does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(d) Contractors may obtain additional information on registration and annual confirmation requirements at <https://www.acquisition.gov>.

(End of clause)

**52.205 [Reserved]**

**52.206 [Reserved]**



**52.301 Solicitation provisions and contract clauses (Matrix).**

Type of Contract:	Provision or Clause	Is Incorporation by Reference Authorized? (See FAR 52.102)	Uniform Contract Format Section, when Applicable	Fixed-Price Supply	Cost-Reimbursement Supply	Fixed-Price Research & Development	Cost Reimbursement Research & Development	Fixed-Price Service	Cost Reimbursement Service	Fixed-Price Construction	Cost Reimbursement Construction	Time & Material/Labor Hours	Leasing of Motor Vehicles	Communication Services	Contract Purpose:
P or C		=													Required
IBR		=													Required when Applicable
UCF		=													Optional
FP SUP		=													Revision
CR SUP		=													
FP R&D		=													
CR R&D		=													
FP SVC		=													
CR SVC		=													
FP CON		=													
CR CON		=													
T&M LH		=													
LMV		=													
COM SVC		=													

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
<a href="#">52.202-1</a> Definitions.	<a href="#">2.201</a>	C	Yes	I	R	R	A	R	R	R	A	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.203-2</a> Certificate of Independent Price Determination.	<a href="#">3.103-1</a>	P	No	K	A		A		A		A			A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-3</a> Gratuities.	<a href="#">3.202</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-5</a> Covenant Against Contingent Fees.	<a href="#">3.404</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.203-6</a> Restrictions on Subcontractor Sales to the Government.	<a href="#">3.503-2</a>	C	Yes	I	R	R			R										R				R
Alternate 1	<a href="#">3.503-2</a>	C	Yes																				R
<a href="#">52.203-7</a> Anti-Kickback Procedures.	<a href="#">3.502-3</a>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<a href="#">52.203-8</a> Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity.	<a href="#">3.104-9(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-10</a> Price or Fee Adjustment for Illegal or Improper Activity.	<a href="#">3.104-9(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-11</a> Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions.	<a href="#">3.808(a)</a>	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-12</a> Limitation on Payments to Influence Certain Federal Transactions.	<a href="#">3.808(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-13</a> Contractor Code of Business Ethics and Conduct.	<a href="#">3.1004(a)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<a href="#">52.203-14</a> Display of Hotline Poster(s).	<a href="#">3.1004(b)</a>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.203-15 Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.	3.907-7	C	Yes	Yes	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.203-16 Preventing Personal Conflicts of Interest	3.1106	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-1 Approval of Contract.	4.103	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-2 Security Requirements.	4.404(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	4.404(b)	C	Yes	I					A														
Alternate II	4.404(c)	C	Yes	I							A												
52.204-3 Taxpayer Identification.	4.905	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-4 Printed or Copied Double-Sided on Postconsumer Fiber Content Paper.	4.303	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-5 Women-Owned Business (Other Than Small Business)	4.607(b)	P	Yes	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-6 Data Universal Numbering System Number.	4.607(b)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-7 Central Contractor Registration.	4.1105(a)(1)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Alternate I	4.1105(a)(2)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-8 Annual Representations and Certifications	4.1202	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-9 Personal Identity Verification of Contractor Personnel.	4.1303	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards.	4.1403(a)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-11 American Recovery and Reinvestment Act—Reporting Requirements.	4.1502	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-12 Data Universal Numbering System Number Maintenance.	4.607(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.204-13 Central Contractor Registration Maintenance.	4.1105(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.207-1 Notice of Standard Competition.	7.305(a)	P	Yes	L	A				A														
52.207-2 Notice of Streamlined Competition.	7.305(b)	P	Yes	L	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.207-3 Right of First Refusal of Employment.	7.305(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.207-4 Economic Purchase Quantity—Supplies.	7.203	P	No	K	A	A																	
52.207-5 Option to Purchase Equipment.	7.404	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.208-4 Vehicle Lease Payments.	8.1104(a)	C	Yes	I																			
52.208-5 Condition of Leased Vehicles.	8.1104(b)	C	Yes	I																			
52.208-6 Marking of Leased Vehicles.	8.1104(c)	C	Yes	I																			
52.208-7 Tagging of Leased Vehicles.	8.1104(d)	C	Yes	I																			
52.208-8 Required Sources for Helium and Helium Usage Data.	8.505	C	No	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
Alternate III	<u>25.1101(b)(2)(iv)</u>	P	No	K	A	A							A	A					A		A		
<u>52.225-5 Trade Agreements.</u>	<u>25.1101(c)(1)</u>	C	Yes	I	A	A													A		A		A
<u>52.225-6 Trade Agreements Certificate.</u>	<u>25.1101(c)(2)</u>	P	No	K	A	A													A		A		
<u>52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles.</u>	<u>25.1101(d)</u>	P	Yes	L	A	A	A	A											A		A		A
<u>52.225-8 Duty-Free Entry.</u>	<u>25.1101(e)</u>	C	Yes	I	A	A	A	A					A	A	A	A			A		A		A
<u>52.225-9 Buy American Act—Construction Materials.</u>	<u>25.1102(a)</u>	C	No						A	A													
<u>52.225-10 Notice of Buy American Act Requirement—Construction Materials.</u>	<u>25.1102(b)(1)</u>	P	No						A	A													
Alternate I	<u>25.1102(b)(2)</u>	P	No						A	A													
<u>52.225-11 Buy American Act—Construction Materials under Trade Agreements.</u>	<u>25.1102(c)</u>	C	No						A	A													
Alternate I	<u>25.1102(c)(3)</u>	C	No						A	A													
<u>52.225-12 Notice of Buy American Act Requirement—Construction Materials under Trade Agreements.</u>	<u>25.1102(d)(1)</u>	P	No						A	A													
Alternate I	<u>25.1102(d)(2)</u>	P	No						A	A													
Alternate II	<u>25.1102(d)(3)</u>	P	No						A	A													
<u>52.225-13 Restrictions on Certain Foreign Purchases.</u>	<u>25.1103(a)</u>	C	Yes	I	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
<u>52.225-14 Inconsistency Between English Version and Translation of Contract.</u>	<u>25.1103(b)</u>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>52.225-17 Evaluation of Foreign Currency Offers.</u>	<u>25.1103(c)</u>	P	Yes	M	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>52.225-18 Place of Manufacture.</u>	<u>25.1101(f)</u>	P	No	K	R	R							A						A		A		A
<u>52.225-19 Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States.</u>	<u>25.301-4</u>	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>52.225-20 Prohibition on Conducting Restricted Business Operations in Sudan—Certification.</u>	<u>25.1103(d)</u>	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
<u>52.225-21 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials.</u>	<u>25.1102(e)(1)</u>	C	No						A	A													
<u>52.225-22 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials.</u>	<u>25.1102(e)(1)</u>	P	No						A	A													
Alternate I	<u>25.1102(e)(1)</u>	P	No						A	A													

PROVISION OR CLAUSE	PRESCRIBED IN	P OR C	IBR	UCF	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	LMV	COM SVC	DDR	A&E	FAC	IND DEL	TRN	SAP	UTL SVC	CI
52.225-23 Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements Alternate I	25.1102(e)(1)	C	No																				
52.225-24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements. Alternate I	25.1102(e)(1)	C	No																				
52.225-24 Notice of Required Use of American Iron, Steel, and Manufactured Goods—Buy American Act—Construction Materials Under Trade Agreements. Alternate II	25.1102(e)(1)	P	No																				
52.225-25 Prohibition on Contracting with Entities Engaging in Contain Activities or Transactions Relating to Iran—Representation and Certifications	25.1103	P	Yes	K	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
52.226-1 Utilization of Indian Organizations and Indian-Owned Economic Enterprises.	26.104	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.226-2 Historically Black College or University and Minority Institution Representation.	26.304	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.226-3 Disaster or Emergency Area Representation.	26.206(a)	P	No	K	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.226-4 Notice of Disaster or Emergency Area Set-Aside.	26.206(b)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.226-5 Restrictions on Subcontracting Outside Disaster or Emergency Area.	26.206(c)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.226-6 Promoting Excess Food Donation to Nonprofit Organizations.	26.404	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.227-1 Authorization and Consent. Alternate I	27.201-2(a)(1)	C	Yes	I	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
52.227-1 Authorization and Consent. Alternate II	27.201-2(a)(2)	C	Yes	I			A	A															
52.227-1 Authorization and Consent. Alternate III	27.201-2(a)(3)	C	Yes	I			A	A															
52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement.	27.201-2(b)	C	Yes	I	A	A																	
52.227-3 Patent Indemnity. Alternate I	27.201-2(c)(1)	C	Yes	I	A	A			A	A													
52.227-3 Patent Indemnity. Alternate II	27.201-2(c)(2)	C	Yes	I	A	A			A	A													
52.227-3 Patent Indemnity. Alternate III	27.201-2(c)(3)	C	Yes	I	A	A			A	A													
52.227-4 Patent Indemnity—Construction Contracts. Alternate I	27.201-2(d)(1)	C	Yes	I																			
52.227-4 Patent Indemnity—Construction Contracts. Alternate II	27.201-2(d)(2)	C	Yes	I																			



**FEDERAL ACQUISITION REGULATION**

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