

**PART II – CONTRACT CLAUSES**

**SECTION I**

**CONTRACT CLAUSES**

**52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

<u>Federal Acquisition Regulations</u>	<u><a href="http://www.arnet.gov/far/">http://www.arnet.gov/far/</a></u>
<u>Department of Energy Acquisition Regulations</u>	<u><a href="http://professionals.pr.doe.gov">http://professionals.pr.doe.gov</a></u>

**The following FAR Clauses are incorporated by reference:**

- I.1 52.202-1 DEFINITIONS (JUL 2004)**
- I.2 52.203-3 GRATUITIES (APR 1984)**
- I.3 52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)**
- I.4 52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)**
- I.5 52.203-7 ANTI-KICKBACK PROCEDURES (OCT 2010)**
- I.6 52.203-8 CANCELLATION, RECISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)**
- I.7 52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)**
- I.8 52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (OCT 2010)**
- I.9 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)**

- I.10 52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)**
- I.11 52.204-9 PERSONAL IDENTITY VERIFICATION OF CONTRACTOR PERSONNEL (SEPT 2007)**
- I.12 52.209-6 PROTECTING THE GOVERNMENTS INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEP 2006)**
- I.13 52.215-2 AUDIT AND RECORDS - NEGOTIATION (OCT 2010)**
- I.14 52.215-8 ORDER OF PRECEDENCE--UNIFORM CONTRACT FORMAT (OCT 1997)**
- I.15 52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA-MODIFICATIONS (OCT 2010)**
- I.16 52.215-13 SUBCONTRACTOR COST OR PRICING DATA-MODIFICATIONS (OCT 2010)**
- I.17 52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2010)**
- I.18 52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997) (If applicable)**
- I.19 52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POST-RETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005)**
- I.20 52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA—MODIFICATIONS (OCT 1997)**
- I.21 52.216-7 ALLOWABLE COST AND PAYMENT (DEC 2002)/DEAR 952.216-7**
- I.22 52.219-4 NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JUL 2005)**
- I.23 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)**
- I.24 52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (OCT 2010) ALTERNATE II (OCT 2001)**

- I.25 52.219-16 LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999)**
- I.26 52.219-25 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM - DISADVANTAGED STATUS AND REPORTING (APR 2008)**
- I.27 52.219-28 POST-AWARD SMALL BUSINESS PROGRAM REPRESENTATION (APR 2009)**
- I.28 52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)**
- I.29 52.222-2 PAYMENT FOR OVERTIME PREMIUMS (JUL 1990)**
- I.30 52.222-3 CONVICT LABOR (JUN 2003)**
- I.31 52.222-4 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION (JUL 2005)**
- I.32 52.222-6 DAVIS-BACON ACT (JUL 2005)**
- I.33 52.222-7 WITHHOLDING OF FUNDS (FEB 1988)**
- I.34 52.222-8 PAYROLLS AND BASIC RECORDS (JUN 2010)**
- I.35 52.222-9 APPRENTICES AND TRAINEES (JUL 2005)**
- I.36 52.222-10 COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)**
- I.37 52.222-11 SUBCONTRACTS (LABOR STANDARDS) (JUL 2005)**
- I.38 52.222-12 CONTRACT TERMINATION - DEBARMENT (FEB 1988)**
- I.39 52.222-13 COMPLIANCE WITH DAVIS-BACON AND RELATED ACT REGULATIONS (FEB 1988)**
- I.40 52.222-14 DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)**
- I.41 52.222-15 CERTIFICATION OF ELIGIBILITY (FEB 1988)**
- I.42 52.222-16 APPROVAL OF WAGE RATES (FEB 1988)**
- I.43 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)**

- I.44 52.222-26 EQUAL OPPORTUNITY (MAR 2007)**
- I.45 52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)**
- I.46 52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2010)**
- I.47 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (OCT 2010)**
- I.48 52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2010)**
- I.49 52.222-41 SERVICE CONTRACT ACT OF 1965, AS AMENDED (NOV 2007)**
- I.50 52.222-42 STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

*This Statement is for Information Only:  
It is not a Wage Determination*

<b>EMPLOYEE CLASS</b>	<b>MONETARY WAGE-FRINGS BENEFITS</b>
Guards	17.57
Boiler Operator Helper	17.42
Carpenter	22.81
Carpenter, Apprentice	17.42
Chemical Operator	22.81
Electrician	24.11
Electrician, Apprentice	17.42
Hazwat	22.81
Heavy Equip Operator	24.11
Indus Vacuum Ldr Oper	20.16
Industrial Mechanic	24.11
Instrument Mechanic, Apprentice	17.42
Laborer, General	12.69
Laborer, Transportation	14.27

<b>EMPLOYEE CLASS</b>	<b>MONETARY WAGE-FRINGS BENEFITS</b>
Laundry Worker	14.27
Locomotive/Switchman	20.16
Machinist	24.11
Mason	22.81
Millwright	24.11
Millwright, Apprentice	17.42
Motor Vehicle Operator	20.16
Oiler	17.42
Painter	22.81
Pipefitter	24.11
Pipefitter, Apprentice	17.42
Porter	14.27
Private Motor Carrier Oper	21.49
Profess Warehouse Attend	19.00
Pump Operator	17.42
QA Checker	17.57
Respirator Wash	17.42
Rigger	24.11
Stationary Engineer	24.11
Waste Water Plant Operator	22.81
Water Plant Operator	22.81
Welder	24.11
Mailroom Supply Specialist	15.71
Word Processing Tech II	15.71
Accounting Tech II	17.57
Info/Records Spec II	17.57
Information Management Tech	21.78
Inventory Supply Spec	21.78
Medical Assistant	17.57
Procurement Tech II	19.60
Secretary III	21.78
Engineer Aide II	17.57
Environ/Lab Tech II	17.57
Info/Records Spec III	21.78
Lead Mailroom Supply Spec	21.78
Procurement Tech III	21.78
Sr. Repro Equip Operator	17.57
Quality Verifier II	21.78
Env/Lab Technician III	21.78
Health Physics Tech III	26.64
Drafter III	21.78

<b>EMPLOYEE CLASS</b>	<b>MONETARY WAGE-FRINGE BENEFITS</b>
Rad Control Tech III	26.64
Sr. Accounting Tech	21.78
Sr. HR/Industrial Rel Spec	38.64
Engineer Aide III	21.78
Sr. Graphics Artist	26.64
Engineer Technician	26.64
Sr. Drafter	26.64
Sr. Env/Lab Tech	26.64
Sr. Executive Secretary	26.64
Sr. Fire Ftr/Em Response Spec	21.78
Sr. Rad Con Tech	26.64
Sr. Health Phys Tech	26.64
Sr. Indust Hygiene Tech	26.64
Sr. Quality Verifier	26.64

*Rates as of 2008, subject to escalation.*

**I.51 52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)**

**I.52 52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997) ALTERNATE I (JUL 1995)**

- (b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

Material (If none, insert "None")	Identification No.

- (d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of

this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

**I.53 52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (AUG 2003) ALTERNATE II (AUG 2003)**

**I.54 52.223-6 DRUG-FREE WORKPLACE (MAY 2001)**

**I.55 52.223-10 WASTE REDUCTION PROGRAM (AUG 2000)**

**I.56 52.223-11 OZONE-DEPLETING SUBSTANCES (MAY 2001)**

(a) *Definition.* "Ozone-depleting substance," as used in this clause, means any substance the Environmental Protection Agency designates in 40 CFR part 82 as-

- (1) Class I, including, but not limited to, chlorofluorocarbons, halons, carbon tetrachloride, and methyl chloroform; or
- (2) Class II, including, but not limited to, hydrochlorofluorocarbons.

(b) The Contractor shall label products which contain or are manufactured with ozone-depleting substances in the manner and to the extent required by 42 U.S.C. 7671j (b), (c), and (d) and 40 CFR part 82, Subpart E, as follows:

Warning

Contains (or manufactured with, if applicable) \* \_\_\_\_\_, a substance(s) which harm(s) public health and environment by destroying ozone in the upper atmosphere.

\* The Contractor shall insert the name of the substance(s).

**I.57 52.223-12 REFRIGERATION EQUIPMENT AND AIR CONDITIONERS (MAY 1995)**

**I.58 52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)**

**I.59 52.224-1 PRIVACY ACT NOTIFICATION (APR 1984)**

**I.60 52.224-2 PRIVACY ACT (APR 1984)**

- I.61 52.225.13 RESTRICTIONS ON CERTAIN FOREIGN PURCHASES (JUN 2008)
- I.62 52.227-3 PATENT INDEMNITY (APR 1984)
- I.63 52.228-7 INSURANCE – LIABILITY TO THIRD PERSONS (MAR 1996)
- I.64 52.230-2 COST ACCOUNTING STANDARDS (OCT 2010)
- I.65 52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (JUN 2010)
- I.66 52.232-9 LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984)
- I.67 52.232-17 INTEREST (OCT 2010)
- I.68 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (JAN 2009)
- I.69 52.232-22 LIMITATION OF FUNDS (APR 1984)
- I.70 52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)
- I.71 52.232-25 PROMPT PAYMENT (OCT 2008)
- I.72 52.232-34 PAYMENT BY ELECTRONIC FUNDS TRANSFER-OTHER THAN CENTRAL CONTRACTOR REGISTRATION (MAY 1999)
  - (b) Mandatory submission of Contractor's EFT information. (1) The Contractor is required to provide the Government with the information required to make payment by EFT (see paragraph (j) of this clause). The Contractor shall provide this information directly to the office designated in this contract to receive that information (hereafter: "designated office") by **no later than 15 days prior to submission of the first request for payment**. If not otherwise specified in this contract, the payment office is the designated office for receipt of the Contractor's EFT information. If more than one designated office is named for the contract, the Contractor shall provide a separate notice to each office. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the designated office(s).
- I.73 52.233-1 DISPUTES (JUL 2002) ALTERNATE I (DEC 1991)
- I.74 52.233-3 PROTEST AFTER AWARD (AUG 1996) ALTERNATE I (JUN 1985)
- I.75 52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

- I.76 52.236-19 ORGANIZATION AND DIRECTION OF THE WORK (APR 1984)
- I.77 52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)
- I.78 52.237-3 CONTINUITY OF SERVICES (JAN 1991)
- I.79 52.239-1 PRIVACY OR SECURITY SAFEGUARDS (AUG 1996)
- I.80 52.242-1 NOTICE OF INTENT TO DISALLOW COSTS (APR 1984)
- I.81 52.242-3 PENALTIES FOR UNALLOWABLE COSTS (MAY 2001)
- I.82 52.242-4 CERTIFICATION OF FINAL INDIRECT COSTS (JAN 1997)
- I.83 52.242-13 BANKRUPTCY (JUL 1995)
- I.84 52.243-2 CHANGES – COST REIMBURSEMENT (AUG 1987) ALTERNATE 1 (APR 1984)
- I.85 52.243-6 CHANGE ORDER ACCOUNTING (APR 1984)
- I.86 52.243-7 NOTIFICATION OF CHANGES (APR 1984)
- I.87 52.244-2 SUBCONTRACTS (OCT 2010)
  - (d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts: **to be determined by Contracting Officer's letter.**
  - (j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations: **TBD.**
- I.88 52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)
- I.89 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2010)
- I.90a 52.245-1 GOVERNMENT PROPERTY (AUG 2010)
- I.90b 52.245-9 USE AND CHARGES (AUG 2010)
- I.91 52.246-25 LIMITATION OF LIABILITY--SERVICES (FEB 1997)
- I.92 52.247-1 COMMERCIAL BILL OF LADING NOTATIONS (FEB 2006)

- (b) If the Government is shown as the consignor or the consignee, the annotation shall be: Transportation is for the **Department of Energy** and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and shall be reimbursed by, the Government.
- (c) If the Government is not shown as the consignor or the consignee, the annotation shall be: Transportation is for the **Department of Energy** and the actual total transportation charges paid to the carrier(s) by the consignor or consignee shall be reimbursed by the Government, pursuant to cost-reimbursement contract No. **DE-EM0001467. This may be confirmed by contacting the person listed in Section G of this contract.**

**I.93 52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003)**

**I.94 52.248-1 VALUE ENGINEERING (OCT 2010)**

**I.95 52.249-6 TERMINATION (COST-REIMBURSEMENT) (MAY 2004)**

**I.96 52.249-14 EXCUSABLE DELAYS (APR 1984)**

**I.97 52.251-1 GOVERNMENT SUPPLY SOURCES (AUG 2010)**

**I.98 52.251-2 INTERAGENCY FLEET MANAGEMENT SYSTEM VEHICLES AND RELATED SERVICES (JAN 1991)**

**I.99 52.252-5 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)**

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

**I.100 52.252-6 AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984)**

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

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

**I.101 52.253-1 COMPUTER GENERATED FORMS (JAN 1991)**

**I.102 52.223-18 CONTRACTOR POLICY TO BAN TEXT MESSAGING WHILE DRIVING (SEP 2010)**

**The following DEAR Clauses are incorporated by reference:**

**I.103 952.202-1 DEFINITIONS (MAR 2002)**

**I.104 952.203-70 WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES (DEC 2000)**

**I.105 952.204-2 SECURITY (AUG 2009)**

**I.106 952.204-70 CLASSIFICATION/DECLASSIFICATION (SEP 1997)**

**I.107 952.204-71 SENSITIVE FOREIGN NATIONS CONTROLS (APR 1994)**

**I.108 952.204-73 FACILITY CLEARANCE (MAY 2002)**

**I.109 952.204-75 PUBLIC AFFAIRS (DEC 2000)**

**I.110 952.208-7 TAGGING OF LEASED VEHICLES (APR 1984)**

**I.111 952.208-70 PRINTING (APR 1984)**

**I.112 952.209-72 ORGANIZATIONAL CONFLICTS OF INTEREST (AUG 2009)  
ALTERNATE I (AUG 2009)**

**I.113 952.219-70 DOE MENTOR-PROTEGE PROGRAM (MAY 2000)**

**I.114 952.223-75 PRESERVATION OF INDIVIDUAL OCCUPATIONAL RADIATION EXPOSURE RECORDS (APR 1984)**

**I.115 952.223-76 CONDITIONAL PAYMENT OF FEE OR PROFIT – SAFEGUARDING RESTRICTED DATA AND OTHER CLASSIFIED INFORMATION AND PROTECTION OF WORKER SAFETY AND HEALTH (DEC 2010)**

**I.116 952.226-74 DISPLACED EMPLOYEE HIRING PREFERENCE (JUN 1997)**

- I.117 952.227-82 RIGHTS TO PROPOSAL DATA (APR 1994)**
- I.118 952.231-71 INSURANCE-LITIGATION AND CLAIMS (AUG 2009)**
- I.119 952.247-70 FOREIGN TRAVEL (JUN 2010)**
- I.120 952.250-70 NUCLEAR HAZARDS INDEMNITY AGREEMENT (JUN 1996)**
- I.121 952.251-70 CONTRACTOR EMPLOYEE TRAVEL DISCOUNTS (AUG 2009)**
- I.122 970.5204-1 COUNTERINTELLIGENCE (DEC 2010)**
- I.123 970.5204-2 LAWS, REGULATIONS, AND DOE DIRECTIVES (DEC 2000)**
- I.124 970.5204-3 ACCESS TO AND OWNERSHIP OF RECORDS (JUL 2005)**
- I.125 970.5223-1 INTEGRATION OF ENVIRONMENT, SAFETY, AND HEALTH INTO WORK PLANNING AND EXECUTION (DEC 2000)**
- I.126 970.5223-4 WORKPLACE SUBSTANCE ABUSE PROGRAMS AT DOE SITES (DEC 2010)**
- I.127 970.5226-1 DIVERSITY PLAN (DEC 2000)**
- I.128 970.5226-2 WORKFORCE RESTRUCTURING UNDER SECTION 3161 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993 (DEC 2000)**
- I.129 970.5227-1 RIGHTS IN DATA-FACILITIES (DEC 2000)**
- I.130 970.5227-4 AUTHORIZATION AND CONSENT (AUG 2002)**
- I.131 970.5227-5 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (AUG 2002)**
- I.132 970.5227-6 PATENT INDEMNITY SUBCONTRACTS (DEC 2000)**
- I.133 970.5227-7 ROYALTY INFORMATION (DEC 2000)**
- I.134 970.5227-9 NOTICE OF RIGHT TO REQUEST PATENT WAIVER (DEC 2000)**

**I.135 970.5227-10 PATENT RIGHTS – MANAGEMENT AND OPERATING CONTRACTS, NON-PROFIT ORGANIZATION OR SMALL BUSINESS FIRM CONTRACTOR (AUG 2002)**

**I.136 970.5227-11 PATENT RIGHTS-MANAGEMENT AND OPERATING CONTRACTS, FOR -PROFIT CONTRACTOR, NON-TECHNOLOGY TRANSFER (DEC 2000)**

**I.137 970.5231-4 PRE-EXISTING CONDITIONS (DEC 2000) ALT II (DEC 2000)**

**I.138 970.5232-5 LIABILITY WITH RESPECT TO COST ACCOUNTING STANDARDS (DEC 2000) The provisions of this clause only apply to the Pay and Benefits provisions in Section H.20(e)(1) and/or other accounting practices approved or directed by the Contracting Officer.**

**The following Clauses are incorporated in full text:**

**I.139 52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)**

- (a) The Contractor shall make the following notifications in writing:
  - (1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.
  - (2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.
- (b) The Contractor shall-
  - (1) Maintain current, accurate, and complete inventory records of assets and their costs;
  - (2) Provide the ACO or designated representative ready access to the records upon request;
  - (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and

- (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.
- (c) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

**I.140 52.209-8 UPDATES OF INFORMATION REGARDING RESPONSIBILITY MATTERS (DEVIATION) (OCT 2010)**

- (a) (1) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIIS) on a semi-annual basis, throughout the life of the contract, by posting the required information in the Central Contractor Registration database at <http://www.ccr.gov> (see [52.204-7](#)).
- (2) At the first semi-annual update on or after April 15, 2011, the Contractor shall post again any required information that the Contractor posted prior to April 15, 2011.
- (b) (1) The Contractor will receive notification when the Government posts new information to the Contractor's record.
- (2) The Contractor will have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, *i.e.*, for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.
- (3) *Public access to information in FAPIIS.*
  - i. Public requests for system information that was submitted prior to April 15, 2011, will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.
  - ii. As required by section 3010 of Public Law 111-212, all information posted in FAPIIS on or after April 15, 2011, except past performance reviews, will be publicly available.

**I.141 52.222-30 DAVIS BACON ACT – PRICE ADJUSTMENT (NONE OR SEPARATELY SPECIFIED METHOD) (DEC 2001)**

- (a) The wage determination issued under the Davis-Bacon Act by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, that is effective for an option to extend the term of the contract, will apply to that option period.
- (b) The Contracting Officer will make no adjustment in contract price, other than provided for elsewhere in this contract, to cover any increases or decreases in wages and benefits as a result of—
  - (1) Incorporation of the Department of Labor’s wage determination applicable at the exercise of the option to extend the term of the contract;
  - (2) Incorporation of a wage determination otherwise applied to the contract by operation of law; or
  - (3) An increase in wages and benefits resulting from any other requirement applicable to workers subject to the Davis-Bacon Act.

**I.142 RESERVED**

**I.143 52.225-11 BUY AMERICAN ACT – CONSTRUCTION MATERIALS UNDER TRADE AGREEMENTS (SEP 2010)**

- (a) Definitions. As used in this clause—
  - “Caribbean Basin country construction material” means a construction material that—
    - (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
    - (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.
  - “Commercially available off-the-shelf (COTS) item”—
    - (1) Means any item of supply (including construction material) that is—
      - (i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);
      - (ii) Sold in substantial quantities in the commercial marketplace; and

- (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 ([46 U.S.C. App. 1702](#)), such as agricultural products and petroleum products.

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

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

“Cost of components” means—

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

“Designated country” means any of the following countries:

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or United Kingdom);

- (2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);
- (3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or
- (4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

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

“Domestic construction material” means—

- (1) An unmanufactured construction material mined or produced in the United States; or
- (2) A construction material manufactured in the United States, if—
  - (i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or
  - (ii) The construction material is a COTS item.

“Foreign construction material” means a construction material other than a domestic construction material.

“Free Trade Agreement country construction material” means a construction material that—

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

“Least developed country construction material” means a construction material that—

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

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

“WTO GPA country construction material” means a construction material that—

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

(b) Construction materials.

- (1) This clause implements the Buy American Act (41 U.S.C. 10a-10d) by providing a preference for domestic construction material. In accordance with [41 U.S.C. 431](#), the component test of the Buy American Act is waived for construction material that is a COTS item (See FAR [12.505\(a\)\(2\)](#)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American Act restrictions are waived for designated country construction materials.
- (2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

- (3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:  
(none)
- (4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that—
- (i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American Act is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;
  - (ii) The application of the restriction of the Buy American Act to a particular construction material would be impracticable or inconsistent with the public interest; or
  - (iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.
- (c) Request for determination of inapplicability of the Buy American Act.
- (1) (i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including—
    - (A) A description of the foreign and domestic construction materials;
    - (B) Unit of measure;
    - (C) Quantity;
    - (D) Price;
    - (E) Time of delivery or availability;
    - (F) Location of the construction project;
    - (G) Name and address of the proposed supplier; and
    - (H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.
  - (ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

- (iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).
  - (iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.
- (2) If the Government determines after contract award that an exception to the Buy American Act applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.
- (3) Unless the Government determines that an exception to the Buy American Act applies, use of foreign construction material is noncompliant with the Buy American Act.
- (d) Data. To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison			
Construction material description	Unit of measure	Quantity	Price (dollars)*
Item 1:			
Foreign construction material			
Domestic construction material			
Item 2:			
Foreign construction material			
Domestic construction material			

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

[Include other applicable supporting information.]

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

**I.144 952.215-70 KEY PERSONNEL (DEC 2000)**

- (a) The personnel listed in Section J, Attachment F, are considered essential to the work being performed under this contract. Before removing, replacing, or diverting any of the listed or specified personnel, the Contractor must: (1) Notify the Contracting Officer reasonably in advance; (2) submit justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on this contract; and (3) obtain the Contracting Officer's written approval. Notwithstanding the foregoing, if the Contractor deems immediate removal or suspension of any member of its management team is necessary to fulfill its obligation to maintain satisfactory standards of employee competency, conduct, and integrity under the clause at 48 CFR 970.5203-3, Contractor's Organization, the Contractor may remove or suspend such person at once, although the Contractor must notify Contracting Officer prior to or concurrently with such action.
- (b) The list of personnel may, with the consent of the contracting parties, be amended from time to time during the course of the contract to add or delete personnel.

**I.145 952.242-70 TECHNICAL DIRECTION (DEC 2000)**

- (a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer's Representative (COR). The term "technical direction" is defined to include, without limitation:
  - (1) Providing direction to the Contractor that redirects contract effort, shifts work emphasis between work areas or tasks, requires pursuit of certain lines of inquiry, fills in details, or otherwise serves to accomplish the contractual SOW.
  - (2) Providing written information to the Contractor that assists in interpreting drawings, specifications, or technical portions of the work description.
  - (3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the DOE.
- (b) The Contractor will receive a copy of the written COR designation from the CO. It will specify the extent of the COR's authority to act on behalf of the CO.
- (c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that:
  - (1) Constitutes an assignment of additional work outside the SOW;
  - (2) Constitutes a change as defined in the contract clause entitled "Changes;"

- (3) Changes contract cost, the fee (if any), or the time required for contract performance;
  - (4) Changes any of the expressed terms, conditions or specifications of the contract; or
  - (5) Interferes with the Contractor's right to perform to the terms and conditions of the contract.
- (d) All technical direction shall be issued in writing by the COR.
- (e) The Contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the Contractor must not proceed and must notify the CO in writing within five working days after receipt of any such instruction or direction and must request the CO to modify the contract accordingly. Upon receiving the notification from the Contractor, the CO must:
- (1) Advise the Contractor in writing within 30 days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;
  - (2) Advise the Contractor in writing within a reasonable time that the DOE will issue a written change order; or
  - (3) Advise the Contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR.
- (f) A failure of the Contractor and CO either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect the technical direction will be subject to the provisions of the clause in Section I, 52.233-1 "Disputes."