

## C. PROVISIONS AND CLAUSES

### C.2 PROVISIONS

C.2.1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (FAR 52.212-1) (OCT 1995)

C.2.3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS (FAR 52.212-3) (JAN 1997) 52.212-3 Offeror Representations and Certifications--Commercial Items.

C.2.3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS--COMMERCIAL ITEMS(DFARS 252.212-7000) (NOV 1995)

Agreements will be awarded based on the lowest estimated costs to the Government for the total net amount for part B. The net amount for part B will be determined by adding the price for CLIN 0001, CLIN 0002, and CLIN 0003 the sum of these three CLIN's will determine the net amount for part B. A pre-award site visit will be arranged to inspect the offeror's facility. Contractor facilities will be used in evaluation only to determine compliance with part D.8, Facilities and Liability.

### C.3 CLAUSES

C.3.1 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2)(JUN 1988)

C.3.2 ORDERING (FAR 52.216-18)(OCT 1995)

C.3.3 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (FAR 52.212-4)(MAY 1997)

C.3.4 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL ITEMS (FAR 52.212-5)(AUG 1996)

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

- (1) 52.222-3, Convict Labor (E.O. 11755); and
- (2) 52.233-3, Protest After Award (31 U.S.C. 3553).

(b) The Contractor agrees to comply with the FAR clauses in this paragraph (b) which the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(Contracting Officer shall check as appropriate.)

X (1) 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

X (2) 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity (41 U.S.C. 423).

X (3) 52.219-8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns (15 U.S.C. 637(d)(2) and (3));

(4) 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (15 U.S.C. 637(d)(4));

(5) 52.219-14, Limitation on Subcontracting (15 U.S.C. 637(a)(14)).

X (6) 52.222-26, Equal Opportunity (E.O. 11246).

- X (7) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212).
- X (8) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).
- X (9) 52.222-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C.
  - (10) 52.225-3, Buy American Act--Supplies (41 U.S.C. 10)
  - \_\_\_\_\_ (11) 52.225-9, Buy American Act--Trade Agreements Act--Balance of Payments Program (41 U.S.C. 10, 19 U.S.C. 2501-2582).
  - \_\_\_\_\_ (12) Reserved.
  - \_\_\_\_\_ (13) 52.225-18, European Union Sanctions for End Products (E.O. 12849).
  - X (14) 52.225-19, European Union Sanctions for Services (E.O. 12849).
  - \_\_\_\_\_ (15)(i) 52.225-21, Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program (41 U.S.C. 10, Pub. L. 103-187).
  - \_\_\_\_\_ (15) (ii) Alternate I of 52.225-21
  - \_\_\_\_\_ (16) 52.239-1, Privacy or Security Safeguards (U.S.C. 552a).
  - \_\_\_\_\_ (17) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (46 U.S.C. 1241)

(c) The Contractor agrees to comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

(Contracting Officer check as appropriate)

- X (1) 52.222-41, Service Contract Act of 1965, as Amended (41 U.S.C. 351, et seq.)
- X (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351 et seq.)
- \_\_\_\_\_ (3) 52.222-43, Fair Labor Standards Act and Service Contract Act--Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.)
- X (4) 52.222-44, Fair Labor Standards Act and Service Contract Act--Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351, et seq.)
- \_\_\_\_\_ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.)

(d) 'Comptroller General Examination of Record.' The Contractor agrees to comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to

create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law

(e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components--

- (1) 52.222-26, Equal Opportunity (E.O. 11246
- (2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a)); and (3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793
- (4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(End of clause)

### C.3.5 CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS (DFAR 252.212-7001)(FEB 1997)

(a) The Contractor agrees to comply with the Defense Federal Acquisition Regulation Supplement (DFARS) clause 252.247-7023, Transportation of Supplies by Sea, which is included in this contract by reference to implement 10 U.S.C. 2631

(b) The Contractor agrees to comply with any clause that is checked on the following list of DFARS clauses which, if checked, is included in this contract by reference to implement provisions of law or Executive Orders applicable to acquisitions of commercial items or components

- \_\_\_\_\_ 252.205-7000 Provision of Information to Cooperative Agreement Holders (10 U.S.C. 2416).
- \_\_\_\_\_ 252.206-7000 Domestic Source Restriction (10 U.S.C. 2304)
- \_\_\_\_\_ 252.219-7001 Notice of Partial Small Business Set-Aside with Preferential consideration for Small Disadvantaged Business Concerns (\_\_\_\_\_ Alternate I) (Section 9004, Pub. L. 101-165 (10 U.S.C. 2301 (repealed) note))
- \_\_\_\_\_ 252.219-7002 Notice of Small Disadvantaged Business Set-Aside (\_\_\_\_\_ Alternate I) (15 U.S.C. 644).
- \_\_\_\_\_ 252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts) (15 U.S.C. 637).
- \_\_\_\_\_ 252.219-7005 Incentive for Subcontracting with Small Businesses, Small Disadvantaged Businesses, Historically Black Colleges and Minority Institutions (\_\_\_\_\_ Alternate I) (Section 9004, Pub. L. 101-165 (10 U.S.C. 2301 (repealed) note)).
- \_\_\_\_\_ 252.219-7006 Notice of Evaluation Preference for Small Disadvantaged Business Concerns (\_\_\_\_\_ Alternate I) (15 U.S.C. 644).
- \_\_\_\_\_ 252.225-7001 Buy American Act and Balance of Payment Program (41 U.S.C. 10, E.O. 10582).
- \_\_\_\_\_ 252.225-7007 Trade Agreements (10 U.S.C. 2501-2582).
- X 252.225-7012 Preference for Certain Domestic Commodities.
- \_\_\_\_\_ 252.225-7014 Preference for Domestic Specialty Metals (10 U.S.C. 2241 note).
- \_\_\_\_\_ 252.225-7015 Preference for Domestic Hand or Measuring Tools (10 U.S.C. 2241 note).
- \_\_\_\_\_ 252.225-7027 Restriction on Contingent Fees for Foreign Military Sales (22 U.S.C. 2779)
- \_\_\_\_\_ 252.225-7028 Exclusionary Policies and Practices of Foreign Governments (22 U.S.C. 2755).
- \_\_\_\_\_ 252.225-7029 Restriction on Acquisition of Air Circuit Breakers (10 U.S.C. 2534(a)(3)).
- \_\_\_\_\_ 252.225-7036 North American Free Trade Agreement Implementation Act.
- \_\_\_\_\_ 252.227-7015 Technical Data--Commercial Items (10 U.S.C. 2320).
- \_\_\_\_\_ 252.227-7037 Validation of Restrictive Markings on Technical Data (10 U.S.C. 2321).

\_\_\_\_\_ 252.242-7002 Submission of Commercial Freight Bills for Audit (31 U.S.C. 3726).

\_\_\_\_\_ 252.247-7024 Notification of Transportation of Supplies by Sea (10 U.S.C. 2631).

\_\_\_\_\_ 252.249-7001 Notification of Substantial Impact on Employment (10 U.S.C. 2501 note).

(c) In addition to the clauses listed in paragraph (e) of the Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items clause of this contract, the Contractor shall include the terms of the following clause, if applicable, in subcontracts for commercial items or commercial components, awarded at any tier under this contract:

\_\_\_\_\_ 252.225-7014, Preference for Domestic Specialty Metals, Alternate I (10 U.S.C. 2241 note).

(End of clause)