

SPECIAL TERMS AND CONDITIONS OF PURCHASE – SUPPLEMENT 3

COST TYPE PROCUREMENTS UNDER U.S. GOVERNMENT PRIME CONTRACTS

The Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation Supplement (DFARS) clauses referenced below in effect as of the date of the prime contract or higher-tier subcontract are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to Buyer's Order. The Contracts Disputes Act shall have no application to the Buyer's Order. Any reference to a "Disputes" clause shall mean the "Disputes and Arbitration" section of Buyer's General Terms and Conditions of Purchase.

Except as noted above, in the event of a conflict between any terms and/or set forth herein and Buyer's General Terms and Conditions of Purchase, the terms and conditions of these Special Terms and Conditions shall take precedence.

The term "Commercial item(s)" as used herein shall be defined pursuant to FAR 2.101 or DFARS 202.101. In all clauses listed herein, terms shall be revised to suitably identify the party to establish Seller's obligations to Buyer and to the Government and to enable Buyer to meet its obligations under its prime contract or subcontract. Without limiting the generality of the foregoing, and except where further clarified or modified below, the term "Government" and equivalent phrases shall mean "Buyer", the term "Contracting Officer" shall mean "Buyer's Purchasing Representative", the term "Contractor" or "Offeror" shall mean "Seller", "Subcontractor" shall mean "Seller's Subcontractor" under Buyer's Order, and the term "Contract" shall mean "Buyer's Order". If any of the following FAR or DFARS clauses do not apply to Buyer's Order, such clauses shall be considered to be self-deleting.

1. FAR Clauses

In accordance with FAR 52.252-1 and 52.252-2, the following clauses and provisions are incorporated by reference and apply to Buyer's Order as defined by the respective FAR clause or provision:

(a) The following FAR clauses apply to Buyer's Order as defined by the respective FAR clause:

- 52.202-1 Definitions
- 52.204-2 Security Requirements
- 52.209-6 Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
- 52.211-5 Material Requirements
- 52.216-7 Allowable Cost and Payment
- 52.222-20 Walsh Healy Public Contracts Act
- 52.222-26 Equal Opportunity
- 52.222-35 Equal Opportunity for Veterans
- 52.222-36 Affirmative Action for Workers with Disabilities
- 52.222-37 Employment Reports on Veterans
- 52.222-40 Notification of Employee Rights Under the National Labor Relations Act
- 52.222-50 Combating Trafficking in Persons
- 52.222-54 Employment Eligibility Verification (*applicable to all services contracts with a value exceeding \$3,000*)
- 52.223-3 Alt 1 Hazardous Material Identification and Material Safety Data
- 52.223-6 Drug-Free Workplace
- 52.223-11 Ozone Depleting Substances
- 52.225-13 Restrictions on Certain Foreign Purchases
- 52.227-14 Rights in Data - General
- 52.242-15 Stop-Work Order
- 52.245-1 Government Property
- 52.246-1 Contractor Inspection Requirement, Provisions and Clauses
- 52.246-3 Inspection of Supplies-Cost-Reimbursement
- 52.246-5 Inspection of Services-Cost-Reimbursement
- 52.246-6 Inspection-Time-and-Material and Labor-Hour
- 52.246-8 Inspection of Research and Development-Cost-Reimbursement
- 52.246-9 Inspection of Research and Development (Short Form)
- 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels
- 52.249-6 Termination (Cost Reimbursement) (*excluding any references to the Disputes Clause*).

(b) The following additional clauses apply to Buyer's Order as defined by the respective FAR clause if the value of Buyer's Order exceeds the "simplified acquisition threshold" (\$150,000) (FAR 2-201):

- 52.203-3 Gratuities
- 52.203-5 Covenant Against Contingent Fees
- 52.203-6 Restrictions on Subcontractor Sales to the Government
- 52.203-7 Anti-Kickback Procedures
- 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity
- 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity
- 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions
- 52.203-12 Limitation on Payments to Influence Certain Federal Transactions
- 52.215-2 Audit and Records-Negotiation
- 52.215-14 Integrity of Unit Prices
- 52.219-8 Utilization of Small Business Concerns
- 52.222-4 Contract Work Hours and Safety Standards Act—Overtime Compensation
- 52.227-1 Authorization and Consent
- 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- 52.229-3 Federal, State, and Local Taxes
- 52.233-3 Protest After Award
- 52.244-5 Competition in Subcontracting
- 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels

(c) The following additional clauses apply to Buyer's Order as defined by the respective FAR clause if the Seller classified as a Large Business and the value of Buyer's Order equals or exceeds \$650,000:

- 52.219-9 Small Business Subcontracting Plan

- (d) The following additional clauses apply to Buyer's Order as defined by the respective FAR clause if the value of Buyer's Order equals or exceeds \$700,000:
- 52.215-10 Price Reduction for Defective Cost or Pricing Data *(applies to negotiated procurement actions)*
 - 52.215-11 Price Reduction for Defective Cost or Pricing Data-Modifications *(applies to negotiated procurement actions)*
 - 52.215-12 Subcontractor Cost or Pricing Data *(applies to negotiated procurement actions)*
 - 52.215-13 Subcontractor Cost or Pricing Data-Modifications *(applies to negotiated procurement actions)*
 - 52.215-15 Pension Adjustments and Asset Reversions
 - 52.215-18 Reversion or Adjustment of Plans for Post-retirement Benefits (PRB) Other than Pensions
 - 52.215-20 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing SR *(applies to negotiated procurement actions)*
 - 52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data-Modifications *(applies to negotiated procurement actions)*
 - 52.230-2 Cost Accounting Standards *(applicable to Large Business only)*
 - 52.230-3 Disclosure and Consistency of Cost Accounting Practices
 - 52.230-6 Administration of Cost Accounting Standards
 - 52.242-1 Notice of Intent to Disallow Costs
 - 52.242-3 Penalties for Unallowable Costs

- (e) The following additional clauses apply to Buyer's Order as defined by the respective FAR clause if the value of Buyer's Order equals or exceeds \$5,000,000:
- 52.203-13 Contractor Code of Business Ethics and Conduct
 - 52.203-14 Display of Hotline Posters

2. DFARS Clauses

If the Buyer's Order identifies this as non-Department of Defense, then the following clauses do not apply:

- 252.211-7003 Item Identification and Valuation
- 252.223-7008 Prohibition of Hexavalent Chromium
- 252.225-7009 Restriction on Acquisition of Certain Articles Containing Specialty Metals
- 252.225-7016 Restriction on Acquisition of Ball and Roller Bearings

3. Additional Requirements

- (a) For orders issued under the American Recovery and Reinvestment Act, the Seller shall comply with the reporting requirements of FAR 52.204-11, American Recovery and Reinvestment Act Reporting Requirements and shall ensure compliance with the Buy American provisions cited in the Quality Terms cited in the Order.
- (b) Seller covenants and agrees that if Buyer's contract price or a cost allowance is reduced by reason of Seller's failure to comply with an applicable Cost Accounting Standard or to follow any practice disclosed in its Disclosure Statement, Buyer shall be entitled to:
- (i) reduce the price of Buyer's Order by an amount commensurate with the reduction in Buyer's contract price or cost allowance together with interest computed at the applicable Treasury rate; or
 - (ii) in the event Seller shall already have been paid the full Order price or essentially the full Order price, Seller shall reimburse and indemnify Buyer in an amount commensurate with the reduction in Buyer's contract price or cost allowance together with interest computed at the applicable Treasury rate.
- (c) The provisions of 41 CFR 60-300.5, Equal Opportunity for Disabled Veterans, Recently Separated Veterans, Other Protected Veterans, and Armed Forces Service Medal Veterans, apply to all contracts, subcontracts, and purchase orders where the value equals or exceeds \$100,000. **Contractor and subcontractor shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans.**
- (d) The provisions of 41 CFR 60-741.5, Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors Regarding Individuals with Disabilities, apply to all contracts, subcontracts, and purchase orders where the value equals or exceeds \$10,000. **Contractor and subcontractor shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

4. Government Inspection

The Government has the right to perform Government quality assurance at Seller's plant as may be necessary to determine conformance with the requirements specified for all services and/or supplies ordered under Buyer's Order.

5. Government-Owned Facilities

If Government-owned facilities are to be used by Seller to perform work prescribed in Buyer's Order, the Seller shall provide two (2) prices: one based on rent-free use and one based on rental payments *(applicable to request for quote only)*.

6. Order Completion and Closeout

Seller agrees to close out Buyer's Order within three (3) months of finalizing with DCMA its incurred cost submission for the last year of performance. Failure to submit documents within the specified period will result in a unilateral closeout of the Order by the Buyer. For Delivery/Task Order Contracts, completion vouchers and documents shall be submitted on each delivery order within three (3) months of order completion. Any subsequent adjustments required on cost reimbursement elements will be made on the final delivery order.

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