

Appendix SFA-1

FAR & DEAR Clauses Incorporated By Reference

- (a) The Federal Acquisition Regulation (FAR) and the Department of Energy Acquisition Regulation (DEAR) clauses which are incorporated by reference herein shall have the same force and effect as if printed in full text.
- (b) Full text of the referenced clauses may be accessed electronically by copying and pasting the appropriate URL address in your web browser:
- FAR clauses: <https://www.acquisition.gov/browse/far/52>
- DEAR 952 clauses: https://www.ecfr.gov/cgi-bin/text-idx?SID=838834e575ead9ec27ea415e492b42ee&mc=true&tpl=/ecfrbrowse/Title48/48cfr952_main_02.tpl
- DEAR 970 clauses: https://www.ecfr.gov/cgi-bin/text-idx?SID=838834e575ead9ec27ea415e492b42ee&mc=true&tpl=/ecfrbrowse/Title48/48cfr970_main_02.tpl
- (c) The following alterations shall apply to FAR and DEAR clauses wherever necessary to make the context of the unmodified FAR and DEAR clauses applicable to this subcontract.
- (1) The term "Contractor" shall mean "SUBCONTRACTOR;"
- (2) The term "Contract" shall mean this subcontract; and
- (3) The term "DOE", "Government," "Contracting Officer" and equivalent phrases shall mean CONTRACTOR and/or CONTRACTOR'S representative, except the terms "Government" and "Contracting Officer" do not change:
- (i) In the phrases "Government Property," "Government-Furnished Property," and "Government-Owned Property;"
- (ii) In any patent clauses incorporated herein;
- (iii) When a right, act, authorization or obligation can be granted or performed only by the Government or the prime contract Contracting Officer or his duly authorized representative;
- (iv) When title to property is to be transferred directly to the Government;
- (v) When access to proprietary financial information or other proprietary data is required except for authorized audit rights; and
- (vi) Where specifically modified herein.
- (4) For authorized audit rights, the term "Contracting Officer or an authorized representative of the Contracting Officer" shall also include "CONTRACTOR, or an authorized representative of CONTRACTOR."
- (d) Each of the individual FAR/DEAR clauses listed below is incorporated by reference into this subcontract when the condition(s) for applicability is/are met.

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.202-1	Definitions (Jul 2004)	'Agency head' or 'head of agency' means the Secretary, Deputy Secretary, or the Under Secretary and Administrator for National Nuclear Security Administration of the Department of Energy. 'Senior Procurement Executive' means, the individuals who are responsible for management direction of the acquisition system of NNSA, including implementation of the unique acquisition policies, regulations, and standards of NNSA. For NNSA, it is the Administrator for Nuclear Security and the Director, Acquisition and Supply Management.
FAR 52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017)	Applies in all solicitations and resultant subcontracts, other than personal services subcontracts with individuals.
FAR 52.215-22	Limitations on Pass-Through Charges -- Identification of Subcontract Effort (Oct 2009)	Applies if subcontractor intends to subcontract to a lower-tier subcontractor more than 70 percent of the total cost of work to be performed under its subcontract.
FAR 52.222-50	Combating Trafficking in Persons (Mar 2015)	Applies in all subcontracts and in all contracts with agents (as defined in FAR 52.222-50). The requirements in paragraph (h) of this clause apply only to any portion of a subcontract that— (A) Is for supplies, other than commercially available off-the-shelf items, acquired outside the United States, or services to be performed outside the United States; and (B) Has an estimated value that exceeds \$500,000.
FAR 52.222-62	Paid Sick Leave Under Executive Order 13706 (Jan 2017)	Applies in subcontracts for commercial items, as that term is defined in FAR subpart 2.101.
FAR 52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) Alternate I (Jul 1995)	Applies if subcontract involves delivery of hazardous materials as defined in FAR subpart 23.301. If applicable, the term "Government" as used in this clause means "CONTRACTOR and the Government.
FAR 52.223-5	Pollution Prevention And Right-To-Know Information (May 2011) Alternate I (May 2011)	The words "section 503 of Executive Order 13148" in the definition of Priority chemical are deleted and "Implementing Instruction VIII of Executive Order 13423" substituted in their place. The words "sections 502 and 503 of Executive Order 13148" in paragraph (c)(6) are deleted and "Implementing Instruction VIII of Executive Order 13423" substituted in their place. The words "401 of E.O. 13148" in paragraph (c)(7) are deleted and "3(b) of Executive Order 13423" substituted in their place.
FAR 52.223-10	Waste Reduction Program (May 2011)	
FAR 52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016)	Applies in solicitations and subcontracts for services when the subcontract includes the maintenance, service, repair, or disposal of: (i) Refrigeration equipment, such as refrigerators, chillers, or freezers; or (ii) Air conditioners, including air conditioning systems in motor vehicles.
FAR 52.223-13	Acquisition of EPEAT®-Registered Imaging Equipment. (Jun 2014) Alternate I (Oct 2015)	
FAR 52.223-14	Acquisition of EPEAT®-Registered Televisions.(Jun 2014) Alternate I (Jun 2014)	
FAR 52.223-15	Energy Efficiency in Energy-Consuming Products. (Dec 2007)	
FAR 52.223-16	Acquisition of EPEAT®-Registered Personal	

THE FOLLOWING CLAUSES APPLY TO THIS SUBCONTRACT REGARDLESS OF THE AMOUNT OF THE SUBCONTRACT PRICE, UNLESS OTHERWISE NOTED:		
Clause Number	Title and Date	Additional Conditions of Applicability
	Computer Products. (Oct 2015) Alternate I (Jun 2014)	
FAR 52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)	
FAR 52.227-3	Patent Indemnity (Apr 1984)	Applies in subcontracts that may result in the delivery of commercial items, as that term is defined in 48 CFR subpart 2.1.
FAR 52.228-5	Insurance—Work on a Government Installation (Jan 1997)	Applies in subcontracts that require work on a Government installation.
FAR 52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	
FAR 52.244-6	Subcontracts for Commercial Items (Jan 2017)	
FAR 52.245-1	Government Property (Jan 2017)	Applies to (1) fixed-price subcontracts when CONTRACTOR will provide Government property; and (2) subcontracts for the acquisition of commercial items where Government property that exceeds \$150,000 is furnished or where SUBCONTRACTOR is directed to acquire property for use under the subcontract that is titled in the Government.
FAR 52.245-1	Government Property (Jan 2017) Alternate I (Apr 2012)	Applies if subcontract is not awarded on the basis of submission of certified cost or pricing data.
FAR 52.245-2	Government Property Installation Operation Services (Apr 2012)	Applies in fixed price service subcontracts, to be performed at LANL, when CONTRACTOR-furnished property will be provided for initial provisioning only and CONTRACTOR is not responsible for repair or replacement.
FAR 52.245-9	Use and Charges (Apr 2012)	Applies only if FAR 52.245-1 is applicable.
FAR 52.247-63	Preference for U.S.-Flag Air Carriers (Jun 2003)	Applies if performance of subcontract may involve international air transportation.
FAR 52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006)	Applies unless exempted by paragraph (e)(4) of FAR 52.247-64.
DEAR 952.203-70	Whistleblower Protection For Contractor Employees (Dec 2000)	Applies to subcontracts involving work performed on behalf of DOE directly related to activities at DOE-owned or leased sites.
DEAR 952-204-71	Sensitive Foreign Nations Controls (Apr 1994)	Applies if SUBCONTRACTOR may make unclassified information about nuclear technology available to certain sensitive foreign nations. When applicable, contact CONTRACTOR to get a list of Sensitive Foreign Nations.
DEAR 952.208-70	Printing (APR 1984)	
DEAR 952.250-70	Nuclear Hazards Indemnity Agreement (Aug 2016)	Applies only if performance of subcontract may involve the risk of public liability, as that term is defined in the Atomic Energy Act of 1954, as amended, with the additional conditions described in paragraph (d)(2).
DEAR 970.5223-1	Integration Of Environment, Safety, And Health Into Work Planning And Execution (Dec 2000)	Applies to subcontracts involving complex or hazardous work at LANL.
DEAR 970.5225-1	Compliance with Export Control Laws and Regulations (Nov 2015)	
DEAR 970.5229-1	State and Local Taxes (Dec 2000)	Paragraph (b) is deleted.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,500:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-41	Service Contract Labor Standards (May 2014)	Unless exempted, applies if the principal purpose of the subcontract is to furnish services in the United States through the use of service employees. See

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$2,500:		
Clause Number	Title and Date	Additional Conditions of Applicability
		FAR subparts 22.1003-3 and 22.1003-4 for exemptions to SCA.
FAR 52.222-42	Statement of Equivalent Rates for Federal Hires (May 2014)	Applies if FAR 52.222-41 is applicable.
FAR 52.222-43	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (Multiple Year and Option Contracts) (Aug 2018)	Applies if FAR 52.222-41 is applicable, and subcontract is a multiple year contract or is a contract with options to renew.
FAR 52.222-44	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (May 2014)	Applies if FAR 52.222-41 is applicable, and subcontract is not a multiple year contract or is not a contract with options to renew.
FAR 52.222-51	Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements (May 2014)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-48(a).
FAR 52.222-53	Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services - Requirements (May 2014)	Applies if SUBCONTRACTOR has made the certification specified in FAR 52.222-52(a).
FAR 52.222-55	Minimum Wages Under Executive Order 13658 (Dec 2015)	Applies in all subcontracts, regardless of dollar value, that are subject to the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, and are to be performed in whole or in part in the United States.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$3,500:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-54	Employment Eligibility Verification (Oct 2015)	Applies in each subcontract that— (1) Is for— (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or (ii) Construction; (2) Has a value of more than \$3,500; and (3) Includes work performed in the United States.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$10,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-3	Convict Labor (Jun 2003)	
FAR 52.222-21	Prohibition of Segregated Facilities (Apr 2015)	Applies if FAR 52.222-26 Equal Opportunity is applicable.
FAR 52.222-26	Equal Opportunity (Sep 2016)	Applies unless one of the exemptions listed in FAR Subpart 22.807(b) is applicable.
FAR 52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	Applies in subcontracts that will be performed wholly or partially in the United States, unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 3 of Executive Order 13496 of January 30, 2009.
FAR 52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving.(Aug 2011)	
FAR 52.225-1	Buy American Act – Supplies (May 2014)	Applies if the acquisition is for supplies for use within the United States; and none of the exceptions to the Buy American Act apply (e.g., nonavailability, public interest, or information technology that is a commercial item).
FAR 52.232-23	Assignment of Claims (May 2014) Alternate I (Apr 1984)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$15,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-36	Equal Opportunity for Workers with Disabilities (Jul 2014)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$25,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 970.5223-3	Agreement Regarding Workplace Substance Abuse Programs At DOE Sites (Dec 2000)	Solicitation provision applicable if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.
DEAR 970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2000)	Applies if performance of subcontract involves: (i) access to or handling of classified information or special nuclear materials; (ii) high risk of danger to life, the environment, public health and safety, or national security; or (iii) transportation of hazardous materials to or from a DOE site.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$100,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
DEAR 970.5227-5	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2000)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE IS \$150,000 OR MORE:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-35	Equal Opportunity for Veterans (Oct 2015)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.
FAR 52.222-37	Employment Reports on Veterans (Feb 2016)	Applies unless exempted by the rules, regulations, or orders of the Secretary of Labor.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$150,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-7	Anti-Kickback Procedures (May 2014)	Paragraph (c) (1) is deleted.
FAR 52.203-12	Limitation On Payments To Influence Certain Federal Transactions (Oct 2010)	

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$250,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-3	Gratuities (Apr 1984)	
FAR 52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006) Alternate I (Oct 1995)	Alternate I applies if subcontract is for commercial items.
FAR 52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	
FAR 52.219-8	Utilization of Small Business Concerns (Nov 2016)	Applies if subcontract offers further subcontracting opportunities (except subcontracts to small business concerns). If applicable and subcontract exceeds \$700,000, SUBCONTRACTOR shall include FAR 52.219-8 in lower tier subcontracts (except subcontracts to small business concerns) that offer subcontracting possibilities.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SUBCONTRACT PRICE EXCEEDS \$250,000:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.222-17	Nondisplacement of Qualified Workers (May 2014)	Applies in in solicitations and subcontracts for (1) service contracts, as defined at FAR 22.001, (2) that succeed subcontracts for performance of the same or similar work at the same location and (3) that are not exempted by FAR 22.1203-2 or waived in accordance with FAR 22.1203-3.
FAR 52.227-1	Authorization and Consent.(Dec 2007) Alternate I (Apr 1984)	
FAR 52.232-17	Interest (Oct 2008)	Applies unless one of the exemptions listed in FAR Subpart 32.611(a) is applicable.
DEAR 970.5223-7	Sustainable acquisition program. (Oct 2010)	Applies only to first tier subcontracts exceeding the simplified acquisition threshold that support operation of the DOE facility and offer significant subcontracting opportunities for energy efficient or environmentally sustainable products or services.

THE FOLLOWING CLAUSES APPLY ONLY IF THE SCOPE OF WORK REQUIRES THE DESIGN, DEVELOPMENT, OR OPERATION OF A SYSTEM OF RECORDS ON INDIVIDUALS THAT IS SUBJECT TO THE PRIVACY ACT OF 1974:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.224-1	Privacy Act Notification (Apr 1984)	
FAR 52.224-2	Privacy Act (Apr 1984)	

THE FOLLOWING CLAUSES APPLY AS STATED IN THE ADDITIONAL CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015)	Applies only in subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days.
FAR 52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010)	Applies only in subcontracts for commercial items as defined in FAR subpart 2.101 that are funded under the Act.
FAR 52.203-18	Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements - Representation - (Jan 2017)	Solicitation provision that applies in all solicitations, except in solicitations for a personal services subcontract with an individual if the services are to be performed entirely by the individual.
FAR 52.204-21	Basic Safeguarding of Covered Contractor Information Systems (Jun 2016)	Applies only in subcontracts for commercial items (other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.
FAR 52.208-8	Required Sources For Helium And Helium Usage Data (Apr 2014)	Applies where performance of subcontract involves a major helium requirement. See FAR 52.208-8 for definition of major helium requirement.
FAR 52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)	Applies in solicitations and subcontracts, other than a subcontract for commercially available off-the-shelf (COTS) items, where the subcontract value exceeds \$35,000.
FAR 52.211-15	Defense Priority And Allocation Requirements (Apr 2008)	Applies in subcontracts in support of an approved program issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700).
FAR 52.222-24	Preaward On-Site Equal Opportunity Compliance Evaluation (Feb 1999)	Solicitation provision that applies if proposed subcontract price is expected to be \$10,000,000 or more.

THE FOLLOWING CLAUSES APPLY AS STATED IN THE ADDITIONAL CONDITIONS OF APPLICABILITY:		
Clause Number	Title and Date	Additional Conditions of Applicability
FAR 52.223-7	Notice of Radioactive Materials (Jan 1997)	Applies if items containing either (1) radioactive material (requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended) or (2) other radioactive material (not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries) are to be delivered or serviced under this subcontract. If applicable, SUBCONTRACTOR shall notify CONTRACTOR, in writing, 30 days prior to delivery of, or prior to completion of any servicing required by this subcontract.
FAR 52.223-11	Ozone-Depleting Substances (May 2001)	Applies in solicitations and subcontracts for ozone-depleting substances or for supplies that may contain or be manufactured with ozone-depleting substances that will be performed within the United States and its outlying areas.
FAR 52.224-3	Privacy Training.(Jan 2017)	Applies when subcontractor employees will– (1) Have access to a system of records; (2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information; or (3) Design, develop, maintain, or operate a system of records.
FAR 52.225-8	Duty-Free Entry.(Oct 2010)	Applies if foreign supplies in excess of \$15,000 may be imported into the customs territory of the United States.
FAR 52.227-14	Rights in Data - General (May 2014) as modified by DEAR 927.409(a), including Alternate V (Dec 2007)	Applies in subcontracts in which technical data or computer software is expected to be produced and in subcontracts for supplies that contain a requirement for production or delivery of data.
FAR 52.227-19	Commercial Computer Software License (Dec 2007)	Applies if purchasing computer software.
FAR 52.232-40	Providing Accelerated Payments to Small Business Subcontractors. (Dec 2013)	Applies only to subcontracts with Small Business Concerns.
DEAR 952.211-71	Priorities And Allocations (Atomic Energy) (Apr 2008)	Applies in subcontracts issued in accordance with the provisions of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR part 700) that are placed in support of authorized DOE atomic energy programs.
DEAR 970.5204-3	Access To And Ownership Of Records (Oct 2014)	Applies in all subcontracts that contain DEAR 970.5223-1, Integration of Environment, Safety, and Health Into Work Planning and Execution.
DEAR 970.5227-7	Royalty Information (Dec 2000)	Solicitation provision which applies if the amount of royalties reported during negotiation is >\$250.
DEAR 970.5227-8	Refund Of Royalties (Aug 2002)	Applies if the amount of royalties reported during negotiation of the subcontract exceeds \$250. If applicable, SUBCONTRACTOR shall insert the substance of this clause in all lower tier subcontracts under this subcontract in which the amount of royalties reported during negotiation of the subcontract exceeds \$250.
DEAR 970.5232-3	Accounts, Records, and Inspection (Dec 2010)	Applies to subcontracts of any tier where costs incurred are a factor in determining the amount payable to the subcontractor. When the condition precedent is met, only paragraphs (a) through (h) of the clause shall apply.