



SPECIAL CONDITIONS SET 300B

PURCHASES OF COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS

CONTENTS

The following Special Conditions include Federal Acquisition Regulation (FAR) Provisions that are required to be flowed down into this subcontract. Special Conditions which are not preceded with a [] are included in all Subcontracts. Clauses preceded with a [] are included only if marked with an "x". The text of these clauses has been modified to reflect the appropriate relationship of the Government, Purchaser and Subcontractor. Unless the clause is designated as "modified", no substantive changes were made in the text of the clause. There are clauses where the Purchaser Subcontract Manager does not have authority to perform as the Government Contracting Officer. In such cases the text is modified to reflect that the Purchaser will process the request or documentation through the Government Contracting Officer. This is not considered a substantive change in the clause text.

1. FAR 52.202-1 Definitions (11/13) (Modified)
- [] 2. FAR 52.203-13 Contractor Code of Business Ethics (4/10) **[Purchases over \$5,000,000 exceeding 120 days]**
- [] 3. FAR 52.203-15 Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (6/10)
4. FAR 52.219-8 Utilization of Small Business Concerns (10/14) **[applies to large business over \$650,000 if subcontracting opportunities]**
5. FAR 52.222.19 Child labor – Cooperation with Authorities and Remedies (10/14)
6. FAR 52.222-21 Prohibition of Segregated Facilities (4/15)
7. FAR 52.222-26 Equal Opportunity (4/15)
8. FAR 52.222-35 Equal Opportunity for Veterans (7/14) [applies if over \$100,000]
9. FAR 52.222-36 Affirmative Action for Workers with Disabilities (7/14)
10. FAR 52.222-37 Employment Reports on Veterans (7/14)
11. FAR 52.222-40 Notice of Employee Rights under the National Labor Relations Act (12/10)
12. FAR 52.222-50 Combating Trafficking in Persons (3/15)
- [] 13. FAR 52.222-54 Employment Eligibility Verification (8/13) **[ONLY applies to subcontracts and purchase orders over \$3,000 for commercial services (except for commercial services that are part of the purchase of a COTS item (or item that would be a COTS item but for minor modifications) performed by the COTS provider, and are normally provided for that COTS item]**
- [] 14. FAR 52.222-55 Minimum Wages Under Executive Order 13658 (12/14) **[ONLY applies to 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.**
- [] 15. FAR 52.227-19(b) Commercial Computer Software License (12/07)
16. FAR 52.244-6 Subcontracts for Commercial Items (4/15)
17. FAR 52.247-64 Preference for Privately Owned U.S. - Flag Commercial Vessels (2/06)

PURCHASES OF COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS

1. FAR 52.202-1 DEFINITIONS (NOVEMBER 2013) (MODIFIED)

(a) When a solicitation provision or subcontract clause uses a word or term that is defined in the Federal Acquisition Regulations (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the subcontract was awarded, unless –

- (1) The subcontract provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning;
- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures; or
- (5) A different definition is provided in this provision.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acquisition.gov/far>, at the end of the FAR, after the FAR Appendix.

(c) Purchaser's Subcontract Manager means a person with the authority to enter into, administer, and/or terminate subcontracts and make related determinations and findings on behalf of the Purchaser's. The term includes certain authorized representatives of the Purchaser's Subcontract Manager acting within the limits of their authority as delegated by the Purchaser's Subcontract Manager.

(d) "Government Contracting Officer and Contracting Officer", means the Contracting Officer of the cognizant Government Agency or Government that awarded the prime contract.

(e) "Subcontractor" means the entity entering into the Subcontract with Logistics Services International, Inc. to perform the sublet work described in the Subcontract documents.

(f) The term "Purchaser" means Logistics Services International, Inc. Purchaser and Logistics Services International, Inc. are used interchangeably throughout the Subcontract documents.

(g) "Prime Contract" means the Prime Contract entered into between Purchaser and the Government under which the subject subcontract is being performed.

(h) "Subcontract" or "Subcontract Documents" means the document of which these Standard General Provisions form a part, and includes all appendices and provisions incorporated by reference.

(i) "Lower Tier Subcontractor" means a person or organization having a subcontract with Subcontractor, or receiving a Purchase Order from Subcontractor, for performance of sublet work under this Subcontract Agreement.

2. FAR 52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APRIL 2010)

This clause applies to subcontracts over \$5 million over 120 days

(a) *Definitions.* As used in this clause—

"Agent" means any individual, including a director, an officer, an employee, or an independent Subcontractor, authorized to act on behalf of the organization.

"Full cooperation"—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Subcontractor rights arising in law, the FAR, or the terms of the contract. It does not require—

(i) A Subcontractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Subcontractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Subcontractor from—

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

“Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

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

(b) *Code of business ethics and conduct.*

(1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Subcontractor shall—

- (i) Have a written code of business ethics and conduct; and
- (ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Subcontractor shall—

(i) Exercise due diligence to prevent and detect criminal conduct; and
(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3) (i) The Subcontractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this Subcontract or any subcontract thereunder, the Subcontractor has credible evidence that a principal, employee, agent, or subcontractor of the Subcontractor has committed—

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act ([31 U.S.C. 3729-3733](#)).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Subcontractor’s disclosure as confidential where the information has been marked “confidential” or “proprietary” by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, [5 U.S.C. Section 552](#), without prior notification to the Subcontractor. The Government may transfer documents provided by the Subcontractor to any department or agency within the Executive Branch if the information relates to matters within the organization’s jurisdiction.

(iii) If the violation relates to an order against a Government-wide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Subcontractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Subcontractor has represented itself as a small business concern pursuant to the award of this Subcontract or if this Subcontract is for the acquisition of a commercial item as defined at FAR [2.101](#). The Subcontractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Subcontractor’s standards and procedures and other aspects of the Subcontractor’s business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual’s respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Subcontractor’s principals and employees, and as appropriate, the Subcontractor’s agents and lower tier subcontractors.

(2) An internal control system.

(i) The Subcontractor’s internal control system shall—

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Subcontractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Subcontractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Subcontractor's code of business ethics and conduct and the special requirements of Government contracting, including—

(1) Monitoring and auditing to detect criminal conduct;

(2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and

(3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.

(D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.

(E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.

(F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Subcontractor or a lower tier subcontract thereunder, the Subcontractor has credible evidence that a principal, employee, agent, or lower tier subcontractor of the Subcontractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title [18 U.S.C.](#) or a violation of the civil False Claims Act ([31 U.S.C. 3729-3733](#)).

(1) If a violation relates to more than one Government contract, the Subcontractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.

(2) If the violation relates to an order against a Government-wide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Subcontractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.

(3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.

(4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.

(G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.

(d) *Subcontracts.*

(1) The Subcontractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.

(2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

3. FAR 52.203-15 WHISTLEBLOWER PROTECTIONS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (JUNE 2010)

(a) The Subcontractor shall post notice of employees rights and remedies for whistleblower protections provided under section 1553 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

(b) The Subcontractor shall include the substance of this clause including this paragraph (b) in all lower tier subcontracts that are funded in whole or in part with Recovery Act funds.

4. FAR 52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (OCTOBER 2014)

[This clause applies to large business concerns if over \$650,000 and only if there are subcontracting opportunities]

(a) Definitions. As used in this Subcontract-

“HUBZone small business concern” means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

“Service-disabled veteran-owned small business concern”-

(1) Means a small business concern-

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](#).

“Small business concern” means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

“Small disadvantaged business concern”, consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that-

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by-

(i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and

(ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

“Veteran-owned small business concern” means a small business concern-

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at [38 U.S.C. 101\(2\)](#)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern-

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Subcontractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The subcontractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(d) (1) Subcontractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(2) The Subcontractor shall confirm that a lower tier subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the System for Award Management database or by contacting the SBA. Options for contacting the SBA include-

(i) HUBZone small business database search application web page at http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm; or <http://www.sba.gov/hubzone>;

(ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or

(iii) The SBA HUBZone Help Desk at hubzone@sba.gov.

5. FAR 52.222-19 CHILD LABOR - COOPERATION WITH AUTHORITIES AND REMEDIES (JANUARY 2014)

(a) Applicability. This clause does not apply to the extent that the Subcontractor is supplying end products mined, produced, or manufactured in-

(1) Canada, and the anticipated value of the acquisition is \$25,000 or more;

(2) Israel, and the anticipated value of the acquisition is \$50,000 or more;

(3) Mexico, and the anticipated value of the acquisition is \$79,507 or more; or

(4) Armenia, Aruba, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan or the United Kingdom and the anticipated value of the acquisition is \$204,000 or more.

(b) Cooperation with Authorities. To enforce the laws prohibiting the manufacture or importation of products mined, produced, or manufactured by forced or indentured child labor, authorized officials may need to conduct investigations to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under this Subcontract. If the solicitation includes the provision 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products, or the equivalent at 52.212-3(i), the Subcontractor agrees to cooperate fully with authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice by providing reasonable access to records, documents, persons, or premises upon reasonable request by the authorized officials.

(c) Violations. The Government may impose remedies set forth in paragraph (d) for the following violations:

(1) The Subcontractor has submitted a false certification regarding knowledge of the use of forced or indentured child labor for listed end products.

(2) The Subcontractor has failed to cooperate, if required, in accordance with paragraph (b) of this clause, with an investigation of the use of forced or indentured child labor by an Inspector General, Attorney General, or the Secretary of the Treasury.

(3) The Subcontractor uses forced or indentured child labor in its mining, production, or manufacturing processes.

(4) The Subcontractor has furnished under the contract end products or components that have been mined, produced, or manufactured wholly or in part by forced or indentured child labor. (The Government will not pursue remedies at paragraph (d)(2) or paragraph (d)(3) of this clause unless sufficient evidence indicates that the Subcontractor knew of the violation.)

(d) Remedies.

(1) The Purchaser may terminate the subcontract.

(2) The subcontract may be suspended in accordance with procedures in FAR Subpart 9.4.

(3) The debarring official may debar the Subcontractor for a period not to exceed 3 years in accordance with the procedures in FAR Subpart 9.4.

Subcontractor shall be responsible for compliance by any lower-tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

6. FAR 52.222-21 PROHIBITION OF SEGREGATED FACILITIES (APRIL 2015)

(a) Definitions

“Gender identity” has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

“Segregated facilities,” means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

“Sexual orientation” has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

(b) The Subcontractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Subcontractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this subcontract.

(c) The Subcontractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this subcontract.

7. FAR 52.222-26 EQUAL OPPORTUNITY (APRIL 2015)

(a) Definition.

“Gender identity” has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

“Sexual orientation” has the meaning given by the Department of Labor’s Office of Federal Contract Compliance Programs, and is found at www.dol.gov/ofccp/LGBT/LGBT_FAQs.html.

“United States,” as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b) (1) If, during any 12-month period (including the 12 months preceding the award of this subcontract), the Subcontractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Subcontractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Subcontractor shall provide information necessary to determine the applicability of this clause.

(2) If the Subcontractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Subcontractor’s activities (41 CFP 60-1.5)

(c) (1) The Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. However, it shall not be a violation of this clause for the Subcontractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Subcontractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. This shall include, but not be limited to –

- (i) Employment;
- (ii) Upgrading;
- (iii) Demotion;
- (iv) Transfer;
- (v) Recruitment or recruitment advertising;
- (vi) Layoff or termination;
- (vii) Rates of pay or other forms of compensation; and
- (viii) Selection for training, including apprenticeship.

(3) The Subcontractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Purchaser Subcontract Manager that explain this clause.

(4) The Subcontractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(5) The Subcontractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Purchaser Subcontract Manager advising the labor union or workers' representative of the Subcontractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Subcontractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Subcontractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Subcontractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Subcontractor has filed within the 12 months preceding the date of contract award, the Subcontractor shall, with 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Subcontractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Subcontractor shall permit the Purchaser to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Subcontractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this subcontract may be canceled, terminated, or suspended in whole or in part and the Subcontractor may be declared ineligible for further Purchaser contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Subcontractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Subcontractor shall include the terms and conditions of subparagraphs (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Subcontractor shall take such action with respect to any subcontract or purchase order as the Purchaser Subcontract Manager may direct as a means of enforcing these terms and conditions, including sanctions for non-compliance, provided, that if the Subcontractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Subcontractor may request the United States to enter into the litigation to protect the interests of the United States.

(d) Notwithstanding any other clause in this subcontract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

8. FAR 52.222-35 EQUAL OPPORTUNITY FOR VETERANS (JULY2014)

(a) Definitions. As used in this clause--

“Active duty wartime or campaign badge veteran,” “Armed Forces service medal veteran,” “disabled veteran,” “protected veteran,” “qualified disabled veteran,” and “recently separated veteran” have the meanings given at FAR [22.1301](#).

(b) Equal opportunity clause. The Subcontractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-300.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified protected veterans, and requires affirmative action by the Contractor to employ and advance in employment qualified protected veterans.

(c) Lower Tier Subcontracts. The Subcontractor shall insert the terms of this clause in subcontracts of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Subcontractor shall act as specified by the Director, Office of Federal Contract Compliance Programs, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

9. FAR 52.222-36 AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JULY 2014)

The following clause applies to this Subcontract if the Subcontract exceeds \$15,000 and is not exempted by rules, regulations or orders of the Secretary of Labor as of the date of the Prime Contract:

(a) Equal opportunity clause. The Contractor shall abide by the requirements of the equal opportunity clause at 41 CFR 60-741.5(a), as of March 24, 2014. This clause prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by the Contractor to employ and advance in employment qualified individuals with disabilities.

(b) Subcontracts. The Subcontractor shall include the terms of this clause in every lower tier subcontract or purchase order in excess of \$15,000 unless exempted by rules, regulations, or orders of the Secretary, so that such provisions will be binding upon each subcontractor or vendor. The Subcontractor shall act as specified by the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, to enforce the terms, including action for noncompliance. Such necessary changes in language may be made as shall be appropriate to identify properly the parties and their undertakings.

11. FAR 52.222-40 NOTIFICATION OF EMPLOYEE RIGHTS UNDER THE NATIONAL LABOR RELATIONS ACT (DECEMBER 2010)

(a) During the term of this Subcontract, The Subcontractor shall post an employee notice, of such size and in such form, and containing such content as prescribed by the Secretary of Labor, in conspicuous places in and about its plants and offices where employees covered by the national Labor Relations Act engage in activities relating to the performance of the contract, including all places where notices to employees are customarily posted both physically and electronically, in the languages employees speak, in accordance with 29 CFR 471.2(d) and (f).

(1) Physical posting of the employee notice shall be in conspicuous places in and about The Subcontractor's plants and offices so that the notice is prominent and readily seen by employees who are covered by the National Labor Relations Act and engage in activities related to the performance of the contract.

(2) If The Subcontractor customarily posts notices to employees electronically, then The Subcontractor shall also post the required notice electronically by displaying prominently, on any Web site that is maintained by The Subcontractor and is customarily used for notices to employees about terms and conditions of employment, a link to the Department of Labor's Web site that contains the full text of the poster. The link to the Department's Web site, as referenced in (b)(3) of this section, must read, "Important Notice about Employee Rights to Organize and Bargain Collectively with Their Employers."

(b) This required employee notice, printed by the Department of Labor, may be—

(1) Obtained from the Division of Interpretations and Standards, Office of Labor-Management Standards, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-5609, Washington, DC 20210, (202) 693-0123, (202) 693-0123, or from any field office of the Office of Labor-Management Standards or Office of Federal Contract Compliance Programs;

(2) Provided by the Federal contracting agency if requested;

(3) Downloaded from the Office of Labor-management Standards Web site at <http://www.dol.gov/olms/regs/compliance/EO13496.htm> ; or

(4) Reproduced and used as exact duplicate copies of the Department of Labor's official poster.

(c) The required text of the employee notice referred to in this clause is located at Appendix A, Subpart A, 29 CFR Part 471.

(d) The Subcontractor shall comply with all provisions of the employee notice and related rules, regulations, and orders of the Secretary of Labor.

(e) In the event that the Subcontractor does not comply with the requirements set forth in paragraphs (a) through (d) of this clause, this Subcontract may be terminated or suspended in whole or in part, and The Subcontractor may be suspended or debarred in accordance with 29 CFR 471.14 and subpart 9.4 Such other sanctions or remedies may be imposed as are provided by 29 CFR part 471, which implements Executive Order 13496 or as otherwise provided by law.

(f) Subcontracts.

(1) The Subcontractor shall include the substance of this clause, including this paragraph (f), in every subcontract that exceeds \$10,000 and 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, so that such provisions will be binding upon each subcontractor.

(2) The Subcontractor shall not procure supplies or services in a way designed to avoid the applicability of Executive Order 13496 or this clause.

(3) The Subcontractor shall take such action with respect to any such subcontract as may be directed by the Secretary of Labor as a means of enforcing such provisions, including the imposition of sanctions for noncompliance.

(4) However, if The Subcontractor becomes involved in litigation with a subcontractor, or is threatened with such involvement, as a result of such direction, The Subcontractor may request the United States, through the Secretary of Labor, to enter into such litigation to protect the interests of the United States.

12. FAR 52.222-50 COMBATING TRAFFICKING IN PERSONS (MARCH 2015)

(a) *Definitions.* As used in this clause—

“Agent” means any individual, including a director, an officer, an employee, or an independent contractor, authorized to act on behalf of the organization.

“Coercion” means—

- (1) Threats of serious harm to or physical restraint against any person;
- (2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- (3) The abuse or threatened abuse of the legal process.

“Commercial sex act” means any sex act on account of which anything of value is given to or received by any person.

“Commercially available off-the-shelf (COTS) item” means--

- (1) 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 46 U.S.C. 40102(4), such as agricultural products and petroleum products.

“Debt bondage” means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

“Employee” means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

“Forced labor” means knowingly providing or obtaining the labor or services of a person—

- (1) By threats of serious harm to, or physical restraint against, that person or another person;
- (2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or
- (3) By means of the abuse or threatened abuse of law or the legal process.

“Involuntary servitude” includes a condition of servitude induced by means of—

- (1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or
- (2) The abuse or threatened abuse of the legal process.

“Severe forms of trafficking in persons” means—

- (1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- (2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

“Subcontract” means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract, including this subcontract.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor, including the firm entering into this agreement with Purchaser.

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

(b) *Policy.* The United States Government has adopted a policy prohibiting trafficking in persons including the trafficking-related activities of this clause. Contractors, contractor employees, and their agents shall not—

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract;

(3) Use forced labor in the performance of the subcontract;

(4) Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee's identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;

(5) (i) Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work;

(ii) Use recruiters that do not comply with local labor laws of the country in which the recruiting takes place;

(6) Charge employees recruitment fees;

(7) (i) Fail to provide return transportation or pay for the cost of return transportation upon the end of employment--

(A) For an employee who is not a national of the country in which the work is taking place and who was brought into that country for the purpose of working on a U.S. Government contract or subcontract (for portions of contracts performed outside the United States); or

(B) For an employee who is not a United States national and who was brought into the United States for the purpose of working on a U.S. Government contract or subcontract, if the payment of such costs is required under existing temporary worker programs or pursuant to a written agreement with the employee (for portions of contracts performed inside the United States); except that--

(ii) The requirements of paragraphs (b)(7)(i) of this clause shall not apply to an employee who is--

(A) Legally permitted to remain in the country of employment and who chooses to do so; or

(B) Exempted by an authorized official of the contracting agency from the requirement to provide return transportation or pay for the cost of return transportation;

(iii) The requirements of paragraph (b)(7)(i) of this clause are modified for a victim of trafficking in persons who is seeking victim services or legal redress in the country of employment, or for a witness in an enforcement action related to trafficking in persons. The Subcontractor shall provide the return transportation or pay the cost of return transportation in a way that does not obstruct the victim services, legal redress, or witness activity. For example, the contractor shall not only offer return transportation to a witness at a time when the witness is still needed to testify. This paragraph does not apply when the exemptions at paragraph (b)(7)(ii) of this clause apply.

(8) Provide or arrange housing that fails to meet the host country housing and safety standards; or

(9) If required by law or contract, fail to provide an employment contract, recruitment agreement, or other required work document in writing. Such written work document shall be in a language the employee understands. If the employee must relocate to perform the work, the work document shall be provided to the employee at least five days prior to the employee relocating. The employee's work document shall include, but is not limited to, details about work description, wages, prohibition on charging recruitment fees, work location(s), living accommodations and associated costs, time off, roundtrip transportation arrangements, grievance process, and the content of applicable laws and regulations that prohibit trafficking in persons.

(c) *Subcontractor requirements.* The Subcontractor shall—

(1) Notify its employees of—

(i) The United States Government's policy prohibiting trafficking in persons, described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees or agents for violations of this policy. Such actions for employees may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees, agents, or subcontractors that violate the policy in paragraph (b) of this clause.

(d) *Notification.*

(1) The Subcontractor shall inform the Purchaser immediately of—

(i) Any credible information it receives from any source (including host country law enforcement) that alleges a Subcontractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy in paragraph (b) of this clause (see also 18 U.S.C. 1351, Fraud in Foreign Labor Contracting, and 52.203-13(b)(3)(i)(A), if that clause is included in the solicitation or contract, which requires disclosure to the agency Office of the Inspector General when the Subcontractor has credible evidence of fraud); and

(ii) Any actions taken against a Subcontractor employee, subcontractor, subcontractor employee, or their agent pursuant to this clause.

(2) If the allegation may be associated with more than one contract, the Subcontractor shall inform the contracting officer for the contract with the highest dollar value.

(e) *Remedies.* In addition to other remedies available to the Government, the Subcontractor's failure to comply with the requirements of paragraphs (c), (d), (g), (h), or (i) of this clause may result in—

(1) Requiring the Subcontractor to remove a Subcontractor employee or employees from the performance of the contract;
(2) Requiring the Subcontractor to terminate a subcontract;
(3) Suspension of contract payments until the Subcontractor has taken appropriate remedial action;
(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Subcontractor non-compliance;

(5) Declining to exercise available options under the contract;
(6) Termination of the contract for default or cause, in accordance with the termination clause of this Subcontract; or
(7) Suspension or debarment.

(f) *Mitigating and aggravating factors.* When determining remedies, the Contracting Officer may consider the following:

(1) *Mitigating factors.* The Subcontractor had a Trafficking in Persons compliance plan or an awareness program at the time of the violation, was in compliance with the plan, and has taken appropriate remedial actions for the violation, that may include reparation to victims for such violations.

(2) *Aggravating factors.* The Subcontractor failed to abate an alleged violation or enforce the requirements of a compliance plan, when directed by the Contracting Officer to do so.

(g) *Full cooperation.*

(1) The Subcontractor shall, at a minimum—

(i) Disclose to the agency Inspector General information sufficient to identify the nature and extent of an offense and the individuals responsible for the conduct;

(ii) Provide timely and complete responses to Government auditors' and investigators' requests for documents;

(iii) Cooperate fully in providing reasonable access to its facilities and staff (both inside and outside the U.S.) to allow contracting agencies and other responsible Federal agencies to conduct audits, investigations, or other actions to ascertain compliance with the Trafficking Victims Protection Act of 2000 (22 U.S.C. chapter 78), E.O. 13627, or any other applicable law or regulation establishing restrictions on trafficking in persons, the procurement of commercial sex acts, or the use of forced labor; and

(iv) Protect all employees suspected of being victims of or witnesses to prohibited activities, prior to returning to the country from which the employee was recruited, and shall not prevent or hinder the ability of these employees from cooperating fully with Government authorities.

(2) The requirement for full cooperation does not foreclose any Subcontractor rights arising in law, the FAR, or the terms of the contract. It does not—

(i) Require the Subcontractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine;

(ii) Require any officer, director, owner, employee, or agent of the Subcontractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; or

(iii) Restrict the Subcontractor from—

(A) Conducting an internal investigation; or

(B) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

(h) *Compliance plan.*

(1) This paragraph (h) applies to any portion of the contract that—

- (i) 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
- (ii) Has an estimated value that exceeds \$500,000.

(2) The Subcontractor shall maintain a compliance plan during the performance of the contract that is appropriate—

- (i) To the size and complexity of the contract; and
- (ii) To the nature and scope of the activities to be performed for the Government, including the number of non-United States citizens expected to be employed and the risk that the contract or subcontract will involve services or supplies susceptible to trafficking in persons.

(3) *Minimum requirements.* The compliance plan must include, at a minimum, the following:

(i) An awareness program to inform Subcontractor employees about the Government's policy prohibiting trafficking-related activities described in paragraph (b) of this clause, the activities prohibited, and the actions that will be taken against the employee for violations. Additional information about Trafficking in Persons and examples of awareness programs can be found at the Web site for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/j/tip/>.

(ii) A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at help@befree.org.

(iii) A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.

(iv) A housing plan, if the Subcontractor or subcontractor intends to provide or arrange housing, that ensures that the housing meets host-country housing and safety standards.

(v) Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.

(4) *Posting.*

(i) The Subcontractor shall post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Subcontractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Subcontractor shall provide the relevant contents of the compliance plan to each worker in writing.

(ii) The Subcontractor shall provide the compliance plan to the Purchaser upon request.

(5) *Certification.* Annually after receiving an award, the Subcontractor shall submit a certification to the Purchaser that—

(i) It has implemented a compliance plan to prevent any prohibited activities identified at paragraph (b) of this clause and to monitor, detect, and terminate any agent, subcontract or subcontractor employee engaging in prohibited activities; and

(ii) After having conducted due diligence, either—

(A) To the best of the Subcontractor's knowledge and belief, neither it nor any of its agents, subcontractors, or their agents is engaged in any such activities; or

(B) If abuses relating to any of the prohibited activities identified in paragraph (b) of this clause have been found, the Subcontractor or subcontractor has taken the appropriate remedial and referral actions.

(i) *Subcontracts.*

(1) The Subcontractor shall include the substance of this clause, including this paragraph (i), in all subcontracts and in all contracts with agents. The requirements in paragraph (h) of this clause apply only to any portion of the 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.

(2) If any subcontractor is required by this clause to submit a certification, the Subcontractor shall require submission prior to the award of the subcontract and annually thereafter. The certification shall cover the items in paragraph (h)(5) of this clause.

13. FAR 52.222-54 EMPLOYMENT ELIGIBILITY VERIFICATION (AUGUST 2013)

(a) Definitions. As used in this clause—

“Commercially available off-the-shelf (COTS) item”--

(1) Means any item of supply that is--

- (i) A commercial item (as defined in paragraph (1) of the definition at 2.101);
- (ii) Sold in substantial quantities in the commercial marketplace; and
- (iii) Offered to the Government, 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 46 U.S.C. 401012(4), such as agricultural products and petroleum products.

Per [46 CFR 525.1\(c\)\(2\)](#), "bulk cargo" means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

“Employee assigned to the Subcontract” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a Subcontract that is required to include the clause prescribed at 22.1803. An employee is not considered to be directly performing work under a Subcontract if the employee--

- (1) Normally performs support work, such as indirect or overhead functions; and
- (2) Does not perform any substantial duties applicable to the Subcontract.

“Subcontract” means any contract, as defined in 2.101, entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

“United States”, as defined in [8 U.S.C. 1101\(a\)\(38\)](#), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

(1) If the Subcontractor is not enrolled as a Federal Contractor in **E-Verify** at time of contract award, the Subcontractor shall--

- (i) Enroll. Enroll as a Federal Contractor in the **E-Verify** program within 30 calendar days of contract award;
- (ii) Verify all new employees. Within 90 calendar days of enrollment in the **E-Verify** program, begin to use **E-Verify** to initiate verification of employment eligibility of all new hires of the Subcontractor, who are working in the United States, whether or not assigned to the Subcontract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and
- (iii) Verify employees assigned to the Subcontract. For each employee assigned to the Subcontract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee's assignment to the Subcontract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Subcontractor is enrolled as a Federal Contractor in **E-Verify** at time of contract award, the Subcontractor shall use **E-Verify** to initiate verification of employment eligibility of--

- (i) All new employees.
 - (A) Enrolled 90 calendar days or more. The Subcontractor shall initiate verification of all new hires of the Subcontractor, who are working in the United States, whether or not assigned to the Subcontract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
 - (B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in **E-Verify**, the Subcontractor shall initiate verification of all new hires of the Subcontractor, who are working in the United States, whether or not assigned to the Subcontract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or
- (ii) Employees assigned to the contract. For each employee assigned to the contract, the Subcontractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the Subcontract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Subcontractor is an institution of higher education (as defined at [20 U.S.C. 1001\(a\)](#)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Subcontractor may choose to verify only employees assigned to the Subcontract, whether existing employees or new hires. The Subcontractor shall follow the applicable verification requirements at (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the subcontract.

(4) Option to verify employment eligibility of all employees. The Subcontractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the subcontract. The Subcontractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180

calendar days of--

(i) Enrollment in the **E-Verify** program; or
(ii) Notification to **E-Verify** Operations of the Subcontractor's decision to exercise this option, using the contact information provided in the **E-Verify** program Memorandum of Understanding (MOU).

(5) The Subcontractor shall comply, for the period of performance of this Subcontract, with the requirements of the **E-Verify** program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Subcontractor's MOU and deny access to the **E-Verify** system in accordance with the terms of the MOU. In such case, the Subcontractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Subcontractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Subcontractor, then the Subcontractor must reenroll in **E-Verify**.

(c) Web site. Information on registration for and use of the **E-Verify** program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) Individuals previously verified. The Subcontractor is not required by this clause to perform additional employment verification using **E-Verify** for any employee--

(1) Whose employment eligibility was previously verified by the Subcontractor through the **E-Verify** program;

(2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or

(3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) Subcontracts. The Subcontractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each lower tier 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 \$3,000; and

(3) Includes work performed in the United States.

14. FAR 52.222-55 MINIMUM WAGES UNDER EXECUTIVE ORDER 13658 (DECEMBER 2014)

This clause applies to 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.

(A) *Definitions.* As used in this clause--

"United States" means the 50 states and the District of Columbia.

"Worker"--

(1) Means any person engaged in performing work on, or in connection with, a contract covered by Executive Order 13658, and

(i) Whose wages under such contract are governed by the Fair Labor Standards Act (29 U.S.C. chapter 8), the Service Contract Labor Standards statute (41 U.S.C. chapter 67), or the Wage Rate Requirements (Construction) statute (40 U.S.C. chapter 31, subchapter IV),

(ii) Other than individuals employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR part 541,

(iii) Regardless of the contractual relationship alleged to exist between the individual and the employer.

(2) Includes workers performing on, or in connection with, the contract whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c).

(3) Also includes any person working on, or in connection with, the contract and individually registered in a bona fide apprenticeship or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship.

(b) *Executive Order Minimum Wage rate.*

(1) The Subcontractor shall pay to workers, while performing in the United States, and performing on, or in connection with, this Subcontract, a minimum hourly wage rate of \$10.10 per hour beginning January 1, 2015.

(2) The Subcontractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016 and annually thereafter, to meet the Secretary of Labor's annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the Federal Register no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on www.wdol.gov (or any successor Web site) and on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. The applicable published E.O. minimum wage is incorporated by reference into this Subcontract.

(3) (i) The Subcontractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only if labor costs increase as a result of an increase in the annual E.O. minimum wage, and for associated labor costs and relevant subcontract costs. Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

(ii) Lower tier Subcontractors may be entitled to adjustments due to the new minimum wage, pursuant to paragraph (b)(2). Purchaser and Subcontractors shall consider any subcontractor requests for such price adjustment.

(iii) The Government Contracting Officer will not adjust the prime contract price under this clause for any costs other than those identified in paragraph (b)(3)(i) of this clause, and will not provide duplicate price adjustments with any price adjustment under clauses implementing the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute.

(4) The Subcontractor warrants that the prices in this Subcontract do not include allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(5) A pay period under this clause may not be longer than semi-monthly, but may be shorter to comply with any applicable law or other requirement under this Subcontract establishing a shorter pay period. Workers shall be paid no later than one pay period following the end of the regular pay period in which such wages were earned or accrued.

(6) The Subcontractor shall pay, unconditionally to each worker, all wages due free and clear without subsequent rebate or kickback. The Subcontractor may make deductions that reduce a worker's wages below the E.O. minimum wage rate only if done in accordance with 29 CFR 10.23, Deductions.

(7) The Subcontractor shall not discharge any part of its minimum wage obligation under this clause by furnishing fringe benefits or, with respect to workers whose wages are governed by the Service Contract Labor Standards statute, the cash equivalent thereof.

(8) Nothing in this clause shall excuse the Subcontractor from compliance with any applicable Federal or State prevailing wage law or any applicable law or municipal ordinance establishing a minimum wage higher than the E.O. minimum wage. However, wage increases under such other laws or municipal ordinances are not subject to price adjustment under this subpart.

(9) The Subcontractor shall pay the E.O. minimum wage rate whenever it is higher than any applicable collective bargaining agreement(s) wage rate.

(10) The Subcontractor shall follow the policies and procedures in 29 CFR 10.24(b) and 10.28 for treatment of workers engaged in an occupation in which they customarily and regularly receive more than \$30 a month in tips.

(c) (1) This clause applies to workers as defined in paragraph (a). As provided in that definition--

(i) Workers are covered regardless of the contractual relationship alleged to exist between the Purchaser, Subcontractor or any lower tier subcontractor or subcontractor and the worker;

(ii) Workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) are covered; and

(iii) Workers who are registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

(2) This clause does not apply to--

(i) Fair Labor Standards Act (FLSA)-covered individuals performing in connection with contracts covered by the E.O., i.e. those individuals who perform duties necessary to the performance of the contract, but who are not directly engaged in

performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts;

(ii) Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to--

(A) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a).

(B) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b).

(C) Those employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

(d) *Notice.* The Subcontractor shall notify all workers performing work on, or in connection with, this Subcontract of the applicable E.O. minimum wage rate under this clause. With respect to workers covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, the Subcontractor may meet this requirement by posting, in a prominent and accessible place at the worksite, the applicable wage determination under those statutes. With respect to workers whose wages are governed by the FLSA, the Subcontractor shall post notice, utilizing the poster provided by the Administrator, which can be obtained at www.dol.gov/whd/govcontracts, in a prominent and accessible place at the worksite. Contractors that customarily post notices to workers electronically may post the notice electronically provided the electronic posting is displayed prominently on any Web site that is maintained by the Subcontractor, whether external or internal, and customarily used for notices to workers about terms and conditions of employment.

(e) *Payroll Records.*

(1) The Subcontractor shall make and maintain records, for three years after completion of the work, containing the following information for each worker:

- (i) Name, address, and social security number;
- (ii) The worker's occupation(s) or classification(s);
- (iii) The rate or rates of wages paid;
- (iv) The number of daily and weekly hours worked by each worker;
- (v) Any deductions made; and
- (vi) Total wages paid.

(2) The Subcontractor shall make records pursuant to paragraph (e)(1) of this clause available for inspection and transcription by authorized representatives of the Administrator. The Subcontractor shall also make such records available upon request of the Contracting Officer.

(3) The Subcontractor shall make a copy of the contract available, as applicable, for inspection or transcription by authorized representatives of the Administrator.

(4) Failure to comply with this paragraph (e) shall be a violation of 29 CFR 10.26 and this Subcontract. Upon direction of the Administrator or upon the Contracting Officer's own action, payment shall be withheld until such time as the noncompliance is corrected.

(5) Nothing in this clause limits or otherwise modifies the Subcontractor's payroll and recordkeeping obligations, if any, under the Service Contract Labor Standards statute, the Wage Rate Requirements (Construction) statute, the Fair Labor Standards Act, or any other applicable law.

(f) *Access.* The Subcontractor shall permit authorized representatives of the Administrator to conduct investigations, including interviewing workers at the worksite during normal working hours.

(g) *Withholding.* The Contracting Officer, upon his or her own action or upon written request of the Administrator, will withhold funds or cause funds to be withheld, from the Subcontractor under this or any other Federal contract with the same Subcontractor, sufficient to pay workers the full amount of wages required by this clause.

(h) *Disputes.* Department of Labor has set forth in 29 CFR 10.51, Disputes concerning contractor compliance, the procedures for resolving disputes concerning a contractor's compliance with Department of Labor regulations at 29 CFR part 10. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this Subcontract. These disputes include disputes between the Subcontractor (or any of its subcontractors) and the contracting agency, the Department of Labor, or the workers or their representatives.

(i) *Antiretaliation.* The Subcontractor shall not discharge or in any other manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under or related to compliance with the E.O. or this clause, or has testified or is about to testify in any such proceeding.

(j) *Subcontractor compliance.* The Purchase is responsible for subcontractor compliance with the requirements of this clause and this is to notify that Subcontractor may be held responsible for any unpaid wages due lower tier subcontractor workers.

(k) *Subcontracts.* The Subcontractor shall include the substance of this clause, including this paragraph (k) 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.

15. FAR 52.227-19 COMMERCIAL COMPUTER SOFTWARE LICENSE (DECEMBER 2007)

NOTE: Paragraph (b) (2) of this clause shall be applicable to all software licenses procured hereunder for United States Government end users, in addition to Seller's GSA Schedule terms if procured under Seller's GSA Schedule or Seller's standard license agreement if the software is not available under Seller's GSA Schedule.

(a) Notwithstanding any contrary provisions contained in the Subcontractor's standard commercial license or lease agreement, the Subcontractor agrees that the Government will have the rights that are set forth in paragraph (b) of this clause to use, duplicate or disclose any commercial computer software delivered under this Subcontract. The terms and provisions of this Subcontract shall comply with Federal laws and the Federal Acquisition Regulation.

(b) (1) The commercial computer software delivered under this Subcontract may not be used, reproduced, or disclosed by the Government except as provided in paragraph (b)(2) of this clause or as expressly stated otherwise in this Subcontract.

(2) The commercial computer software may be—

(i) Used or copied for use with the computer(s) for which it was acquired, including use at any Government installation to which the computer(s) may be transferred;

(ii) Used or copied for use with a backup computer if any computer for which it was acquired is inoperative;

(iii) Reproduced for safekeeping (archives) or backup purposes;

(iv) Modified, adapted, or combined with other computer software, provided that the modified, adapted, or combined portions of the derivative software incorporating any of the delivered, commercial computer software shall be subject to same restrictions set forth in this Subcontract;

(v) Disclosed to and reproduced for use by support service Contractors or their subcontractors, subject to the same restrictions set forth in this Subcontract; and

(vi) Used or copied for use with a replacement computer.

(3) If the commercial computer software is otherwise available without disclosure restrictions, the Subcontractor licenses it to the Government without disclosure restrictions.

(c) The Subcontractor shall affix a notice substantially as follows to any commercial computer software delivered under this Subcontract:

Notice-Notwithstanding any other lease or license agreement that may pertain to, or accompany the delivery of, this computer software, the rights of the Government regarding its use, reproduction and disclosure are as set forth in Government Contract No. _____.

16. FAR 52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (APRIL 2015)

(a) Definitions. As used in this clause –

“Commercial item” has the meaning contained in FAR 2.101, Definitions.

“Subcontract” includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Subcontractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Subcontractor shall incorporate, and require its lower tier subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this subcontract.

(c) (1) The Subcontractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (April 2010) (41 U.S.C 3509) if the subcontract exceeds \$5,000,000, and has a period of more than 120 days. In altering the clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or Federal criminal law shall be deemed to the agency Office of Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (June 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) 52.219-8, Utilization of Small Business Concerns (Oct 2014) (15 U.S.C. 737(d)(2) and (3)), if the

subcontract offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1,500,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting.

(iv) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
(v) 52.222-26, Equal Opportunity (Apr 2015) (E.O. 11246).
(vi) 52.222-35, Equal Opportunity for Veterans (Jul 2014) (38 U.S.C. 4212(a));
(vii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C. 793).
(viii) 52.222-37, Employments Reports on Veterans (Jul 2014) (38 U.S.C. 4212).
(ix) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.
(x) 52.222-50, Combating Trafficking in Persons (Mar 2015) (22 U.S.C. chapter 78 and E.O. 13627) or Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
(xi) 52.222-55, Establishing a Minimum Wage for Contractors (E.O. 13658) (Dec 2014).
(xii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Jul 2013) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. 2302 Note).
(xiii) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013), if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.
(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Subcontractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Subcontractor shall include the terms of this clause, including this paragraph (d), in lower tier subcontracts awarded under this subcontract.

17. FAR 52.247-64 PREFERENCE FOR PRIVATELY OWNED U.S.-FLAG COMMERCIAL VESSELS (FEBRUARY 2006)

(a) Except as provided in paragraph (e) of this clause, the Cargo Preference Act of 1954 (46 U.S.C. 1241(b)) requires that Federal departments and agencies shall transport in privately owned U.S.-flag commercial vessels at least 50 percent of the gross tonnage of equipment, materials, or commodities that may be transported in ocean vessels (computed separately for dry bulk carriers, dry cargo liners, and tankers). Such transportation shall be accomplished when any equipment, materials, or commodities, located within or outside the United States, that may be transported by ocean vessel are:

- (1) Acquired for a U.S. Government agency account;
- (2) Furnished to, or for the account of, any foreign nation without provision for reimbursement;
- (3) Furnished for the account of a foreign nation in connection with which the United States advances funds or credits, or guarantees the convertibility of foreign currencies; or
- (4) Acquired with advance of funds, loans, or guaranties made by or on behalf of the United States.

(b) The Subcontractor shall use privately owned U.S.-flag commercial vessels to ship at least 50 percent of the gross tonnage involved under this subcontract (computed separately for dry bulk carriers, dry cargo liners, and tankers) whenever shipping any equipment, materials, or commodities under the conditions set forth in paragraph (a) above, to the extent that such vessels are available at rates that are fair and reasonable for privately owned U.S.-flag commercial vessels.

(c) (1) The Subcontractor shall submit one legible copy of a rated on-board ocean bill of lading for each shipment to both (i) the Purchasers' Subcontract Manager and (ii) the Division of National Cargo, Office of Market Development, Maritime Administration, U.S. Department of Transportation, Washington, DC 20590. Subcontractor bills of lading shall be submitted through the Prime Subcontractor.

(2) The Subcontractor shall furnish these bill of lading copies (i) within 20 working days of the date of loading for shipments originating in the United States or (ii) within 30 working days for shipments originating outside the United States. Each bill of lading copy shall contain the following information:

- (i) Sponsoring U.S. Government agency.
- (ii) Name of vessel.
- (iii) Vessel flag of registry.
- (iv) Date of loading.
- (v) Port of loading.
- (vi) Port of final discharge.
- (vii) Description of commodity.
- (viii) Gross weight in pounds and cubic feet if available.
- (ix) Total ocean freight revenue in U.S. dollars.

(d) The Subcontractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts or purchase orders under this subcontract, except those described in paragraph (e)(4).

(e) The requirement in paragraph (a) does not apply to--

(1) Cargoes carried in vessels as required or authorized by law or treaty;

(2) Ocean transportation between foreign countries of supplies purchased with foreign currencies made available, or derived from funds that are made available, under the Foreign Assistance Act of 1961 (22 U.S.C. 2353); and

(3) Shipments of classified supplies when the classification prohibits the use of non-Government vessels.

(4) Subcontracts or purchase orders for the acquisition of commercial items unless-

(i) The prime contract is

(A) A contract or agreement for ocean transportation

(B) A construction contract, or

(ii) The supplies being transported are –

(A) Items the Subcontractor is reselling or distributing to the Government without adding value. (Generally the subcontractor does not add value to items when it subcontracts for f.o.b. destination shipment); or

(B) Shipped in direct support of U.S. military - (1) contingency operations; (2) exercises; or (3) forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.

(f) Guidance regarding fair and reasonable rates for privately owned U.S.-flag commercial vessels may be obtained from the:

Office of Costs and Rates
Maritime Administration
400 Seventh Street, SW
Washington, DC 20590
Phone: 202-366-4610.