



Section 9 : GOVERNMENT CONTRACT REQUIREMENTS

CLAUSE 90B (10/11/99)

NAS8-39400

GOVERNMENT CONTRACT REQUIREMENTS

If Form GP1 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 29. If Form GP2 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 27. If Form GP3 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 40. If Form GP4 is applicable to this procurement, this Attachment constitutes the Government clauses contemplated by Article 31.

1. The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. In all of the following clauses, "Contractor" means Seller, "Subcontractor" means Seller's subcontractor, "Contract" means this order and "Contracting Officer" means Buyer. Unless otherwise provided, the clauses are those in effect as of the date of this contract.

52.203-7 Anti-Kickback Procedures (excluding subparagraph (c)(1)). Buyer may withhold sums owed Seller the amount of any kickback paid by Seller or its subcontractors at any tier if (a) the Contracting Officer so directs, or (b) the Contracting Officer has offset the amount of such kickback against money owed Buyer under the prime contract. \$100,000

52.203-10 Price or Fee Adjustment for Illegal or Improper Activity. This clause applies only if this contract exceeds the simplified acquisition threshold. If the Government reduces Buyer's price or fee for violations of the Act by Seller or its subcontractors at any tier, Buyer may withhold from sums owed Seller the amount of the reduction.

52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This clause applies only if this contract exceeds \$100,000.

52.203-12 Limitation on Payments to Influence Certain Federal Transactions. This clause applies only if this Contract exceeds \$100,000.

52.211-15 Defense Priority and Allocation Requirements. This clause is applicable if a priority rating is noted in this contract.

52.215-2 Audit and Records - Negotiation. This clause applies only if this contract exceeds the simplified acquisition threshold.

52.215-10 Price Reduction for Defective Cost or Pricing Data, with the following changes: (a) In subdivision (3) of paragraph (a) insert "of this contract" after "price or cost", (b) In paragraph (c) "Contracting Officer"

means "Contracting Officer or Buyer", (c) In paragraphs (c)(1)(ii) and (c)(2)(i) "Contracting Officer" means Contracting Officer or Buyer. In paragraph (c)(2)(i)(A) delete "to the Contracting Officer". In paragraph (c)(2)(ii)(B) "Government" means Government or Buyer. This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

FAR 52.215-11. Price Reduction for Defective Cost or Pricing Data - Modifications. "Contracting Officer" means "Contracting Officer or Buyer". In paragraph (d)(2)(i)(A) delete "to the Contracting Officer". In paragraph (d)(2)(ii)(B) "Government" means "Government or Buyer". This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

FAR 52.215-12. Subcontractor Cost or Pricing Data - Modifications. The certificate required by paragraph (c) is that set forth in FAR 15.406-2, substituting Buyer's name for "Contracting Officer". This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

52.215-24. Subcontractor Cost or Pricing Data. This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

52.215-14 Integrity of Unit Prices (excluding subparagraph (b)). This clause applies except for contracts at or below the simplified acquisition threshold (as defined in FAR Part 2; construction or architect-engineer services under FAR Part 36; utility services under FAR Part 41; services where supplies are not required; commercial items; and petroleum products. *(Not applicable to a services contract)*)

52.215-15 Termination of Defined Benefit Pension Plans. This clause applies to this contract if it meets the requirements of FAR 15.408(g).

52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits Other Than Pensions (PRB). This clause applies to this contract if it meets the requirements of FAR 15.408(j).

52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data. The term "Contracting Officer" shall mean Buyer's Purchasing Representative.

52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications. The term "Contracting Officer" shall mean Buyer's Purchasing Representative.

52.219-8 Utilization of Small, Small Disadvantaged and Woman-Owned Small Business Concerns.

52.219-9 Small, Small Disadvantaged and Woman-Owned Small Business Subcontracting Plan. In paragraph (c), "Contracting Officer" means Buyer. This clause applies only if this contract exceeds \$500,000. and Seller is not a small business concern.

52.222-1 Notice to Government of Labor Disputes. "Contracting Officer" means "Buyer".

52.222-20 Walsh-Healy Public Contracts Act. This clause applies only if this contract exceeds \$10,000.

52.222-26 Equal Opportunity (subparagraph (b)(1) through (11)).

52.222-35 Affirmative Action for Special Disabled and Vietnam Era Veterans. This clause applies only if this contract exceeds \$10,000.

52.222-36 Affirmative Action for Handicapped Workers. This clause applies only if this contract exceeds \$2,500.

52.222-37 Employment Reports on Special Disabled Veterans and Veterans of the Viet Nam Era. This clause applies only if this contract exceeds \$10,000.

52.223-2 Clean Air and Water. This clause applies only if this contract exceeds \$100,000.

52.223-3 Hazardous Material Identification and Material Safety Data. This clause applies only if Seller delivers hazardous material under this contract. *(Not applicable to a services contract unless supplies are also being delivered.)*

52.225-3 Buy American Act — Supplies. This clause does not apply if this contract is placed under a Department of Defense contract. *(Not applicable to a services contract)*

52.225-10 Duty-free Entry. This clause applies only if this contract identifies supplies to be afforded duty-free entry or if foreign supplies in excess of \$10,000 may be imported into the customs territory of the United States. *(Not applicable to a services contract)*

52.225-11 Restrictions on Certain Foreign Purchases.

52.227-1 Authorization and Consent - Alt. I.

52.227-14 Rights in Data — General. This clause applies only if data will be produced, furnished or acquired under this contract. This clause does not apply if this contract is placed under a Department of Defense contract.

52.227-16 Additional Data Requirements. This clause applies only if this contract involves experimental, developmental, research or demonstration work. This clause does not apply if this contract is placed under a Department of Defense contract.

52.230-2. Cost Accounting Standards. Delete paragraph (b). This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

52.230-3. Disclosure and Consistency of Cost Accounting Practices. Delete paragraph (b). This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

52.230-4 Consistency of Cost Accounting Standards. This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

52.230-6 Administration of Cost Accounting Standards. Add "Buyer and the" before "Contracting Officer" in paragraph (c). This clause applies only if this contract exceeds \$500,000 unless otherwise exempt.

52.242-15 Stop Work Order. The terms "Contracting Officer" and "Government" mean Buyer.

52.244-5 Competition in Subcontracting.

52-244-6 Subcontracts for Commercial Items and Commercial Components.

52.245-2 Government Property.

52.245-17 Special Tooling. This clause applies if tooling is acquired for or furnished by the Government and to be retained for use by the Seller.

52.245-18 Special Test Equipment. This clause applies if test equipment is acquired or furnished by the Government and to be retained for use by the Seller. Change "30 days" to "45 days" in paragraph (b) and (c).

2. NASA Contracts. If this contract is placed under a National Aeronautics and Space Administration contract, the following contract clauses are incorporated by reference from the National Aeronautics and Space Administration Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" means Seller, "Subcontractor" means Seller's subcontractor, "Contract" means this order and "Contracting Officer" means Buyer. Unless otherwise provided, the clauses are those in effect as of the date of this contract.

18-52.219-74 Use of Rural Area Small Businesses.

18-52.219-75 Small, Small Disadvantaged, and Women-Owned Small Business Subcontracting Reporting. This clause applies if FAR 52.219-9 is included in this contract.

18-52.223-70 Safety and Health. This clause applies only if this contract exceeds \$1,000,000 or construction, repairs or alteration in excess of the simplified acquisition threshold, or it involve the use of hazardous materials or operations.

18-52.223-74 Drug- and Alcohol-Free Workforce. This clause applies to Seller if work is performed by an employee in a sensitive position, except if this contract is for commercial items.

18-52.227-70 New Technology. This clause only applies if this Contract is for experimental, developmental, or research work and Seller is other than a small business firm or nonprofit organization.

18-52.244-70 Geographic Participation in the Aerospace Program. This clause applies only if this contract is for \$100,000 or more.

18-52.245-73 Financial Reporting of Government-Owned/Contractor-Held Property.

3. The following prime contract special provisions apply to this purchase order:

A. SAFETY AND ACCIDENT PREVENTION

In performing work under this contract on a Government installation, Seller shall (a) conform to the specific safety requirements contained in the contract, and (b) for those related activities not directly addressed by this contract, conform to the applicable safety rules prescribed by the Government installation, and (c) take such additional precautions as Buyer or the Contracting Officer under Buyer's Government contract may reasonably require for safety and accident prevention purposes.

Any violation of such rules and requirements, unless promptly corrected as directed by Buyer or the Contracting Officer, shall be grounds for termination of this contract in accordance with the default provisions hereof. Buyer may, by written order, direct additional safety and accident standards as may be required under Buyer's Government contract and any adjustments resulting from such direction will be in accordance with

the provisions of this contract entitled "Changes."

B. FOREIGN OBJECT DAMAGE/CONTROL

Seller shall establish and maintain systems and procedures necessary to provide a program of foreign object damage/control.

4. THE FOLLOWING "DISPUTES" PROVISION APPLIES ONLY TO THE CLAUSES OF THIS CONTRACT LISTED BELOW:

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA - MODIFICATIONS

COST ACCOUNTING STANDARDS

DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES

A. Any dispute that arises under or is related to this contract concerning the above named clauses that cannot be settled by mutual agreement of the parties may be decided by a court of competent jurisdiction. Pending final resolution of any dispute, Seller shall proceed with performance of this contract according to Buyer's instructions so long as Buyer continues to pay amounts not in dispute.

B. If a decision arising under the prime contract is made by the Contracting Officer and such decision is also related to the above named clauses of this order, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such decision insofar as it relates to this order; provided, however, that if Seller is adversely affected by any such decision made by the Contracting Officer, and if Buyer elects not to appeal such decision pursuant to the "Disputes" clause of the prime contract, Buyer shall promptly notify Seller. If Seller thereafter timely requests Buyer to appeal such decision, Buyer shall do so. If Buyer appeals such decision, whether at its election or at Seller's request, any decision upon such an appeal, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller under this order with respect to such decision insofar as it relates to this order.

C. If any such appeal is denied or otherwise decided adversely to Seller's interest, or if Seller is otherwise adversely affected by any decision made by any representative of the Government on any decision arising under the prime contract which is also related to this order, from which an appeal under the "Disputes" clause in the prime contract is not available, said decision, if binding upon Buyer under the prime contract, shall in turn be binding upon Buyer and Seller with respect to such decision insofar as it relates to this order; provided, however, that if Seller is adversely affected by any such decision, and if Buyer elects not to bring suit against the Government with respect to such decision, Buyer shall notify Seller with reasonable promptness. If Seller timely requests Buyer to bring suit against the Government, Buyer shall do so. If Buyer brings suit against the Government with respect to any such decision, whether at its election or at Seller's request, a final judgment in any such suit, if binding upon Buyer under the prime contract shall in turn be binding upon Seller and Buyer under this order with respect to the decision insofar as it relates to this order.

D. If necessary for jurisdiction under the Contract Disputes Act, Buyer shall certify Seller's claim and proceed with the appeal only if Buyer is satisfied that the Seller's claim is in good faith, that the supporting data are accurate and complete to the best of its knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Buyer believes the Government is liable. Buyer's position on whether or not it is satisfied shall be reasonable and shall not be used to arbitrarily deny Seller certification. Seller shall indemnify Buyer against

any liability incurred as a result of acting hereunder at Seller's request, including furnishing such certification.

E. If any such appeal or suit is taken or brought by Buyer, whether at its election or at Seller's request, Seller shall assist Buyer in its prosecution thereof in every reasonable manner and Seller shall be afforded reasonable opportunity to participate in the prosecution thereof to the extent Seller's interest may be affected. To the extent requested by Buyer, Seller shall prosecute for Buyer any appeal or suit taken or brought at Seller's request and, in such event, Buyer shall assist Seller in every reasonable manner. All costs and expenses incurred by Seller and Buyer in prosecuting any appeal or suit taken or brought at Seller's request shall be paid by Seller. Where possible, Buyer shall in good faith consult with Seller concerning the presentation to the Contracting Officer or other cognizant representatives of the Government of the matters referred to in Paragraphs B and C above to the extent they may affect Seller's interest.

F. If as a result of any decision or judgment which is binding upon seller and Buyer, as above provided, Buyer is unable to obtain reimbursement from the Government under the prime contract for, or is required to refund or credit to the Government, any amount with respect to any item of cost or fee for which Buyer has reimbursed Seller, Seller shall, on demand, promptly repay such amount to Buyer.

G. The rights and obligations described herein shall survive completion of and final payment under this order.

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[Terms and Conditions Guide](#)