



Section 9 : GOVERNMENT CONTRACT REQUIREMENTS

CLAUSE 91Q (9/26/01)

N00014-01-C-0445

GOVERNMENT CONTRACT REQUIREMENTS

(a) The following contract clauses are incorporated by reference from the Federal Acquisition Regulation and apply to the extent indicated. Unless provided for elsewhere in this contract, only subparagraphs (22), (23), (24), and (31) of this paragraph (a) shall apply to any portion of this contract that is for commercial items or commercial components, as those terms are defined at FAR 52.202-1. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.

(1) 52.203-6 Restrictions on Subcontractor Sales to the Government (JUL 1995). This clause applies only if this contract exceeds \$100,000.

(2) 52.203-7 Anti-Kickback Procedures (JUL 1995) [excluding subparagraph (c)(1)]. This clause applies only if this contract exceeds \$100,000. Buyer may withhold from 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.

(3) 52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (JAN 97). This clause applies to this contract if Seller, its employees, officers, directors or agents participated personally and substantially in any part of the preparation of a proposal for this contract. Seller shall indemnify Buyer for any and all losses suffered by Buyer due to violations of the Act (as set forth in this clause) by Seller or its subcontractors at any tier.

(4) 52.203-10 Price or Fee Adjustment for Illegal or Improper Activity (JAN 1997). This clause applies only if this contract exceeds \$100,000. 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 or recover from Seller the amount of the reduction.

(5) 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (APR 1991)

(6) 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (JUN 1997). This clause applies only if this contract exceeds \$100,000. Paragraph (c) (4) is modified to read as follows: "(c) (4) Seller will promptly submit any disclosure required (with written notice to Buyer) directly to the PCO for the prime contract. Buyer will identify the cognizant Government PCO at Seller's request. Each subcontractor certification will be retained in the subcontract file of the awarding contractor."

(7) 52.211-15 Defense Priority and Allocation Requirements (SEP 1990)

(8) 52.215-2 Audit and Records -- Negotiation (JUN 1999). This clause applies only if this contract exceeds \$100,000 and (i) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these types; (ii) Seller was required to provide cost or pricing data, or (iii) Seller is required to furnish reports as discussed in paragraph (e) of the referenced clause.

(9) 52.215-14 Integrity of Unit Prices (OCT 1997) [excluding paragraph (c)]

(10) 52.215-15 Pension Adjustments and Asset Reversions (DEC 1998). This clause applies only if under this contract certified cost or pricing data is required or preaward or postaward cost determinations are subject to FAR part 31. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause. "Contracting Officer" shall mean Buyer.

(11) 52.215-18 Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (OCT 1997). This clause applies only if under this contract certified cost or pricing data is required or preaward or postaward cost determinations are subject to FAR subpart 31.2. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause. "Contracting Officer" shall mean Buyer.

(12) 52.215-19 Notification of Ownership Changes (OCT 1997). This clause applies only if under this contract certified cost or pricing data is required or preaward or postaward cost determinations are subject to FAR subpart 31.2. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause. "Contracting Officer" shall mean Buyer.

(13) 52.215-20 Requirements for Cost or Pricing Data or Information Other Than Cost Or Pricing Data (OCT 97). "Contracting Officer" shall mean Buyer in subparagraph (a).

(14) 52.215-21 Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data - Modifications (OCT 1997). This clause applies only if this contract exceeds \$500,000. "Contracting Officer" shall mean Buyer in subparagraph (a).

(15) 52.219-8 Utilization of Small Business Concerns (OCT 2000)

(16) 52.219-9 Small Business Subcontracting Plan (OCT 2000). This clause applies only if this contract exceeds \$500,000 and Seller is not a small business concern. In paragraph (c), "Contracting Officer" shall mean Buyer.

(17) 52.222-1 Notice to the Government of Labor Disputes (FEB 1997). "Contracting Officer" shall mean Buyer.

(18) 52.222-2 Payment of Overtime Premiums (JUL 1990). The word "zero" is inserted in the blank space indicated by an asterisk.

(19) 52.222-4 Contract Work Hours and Safety Standards Act -- Overtime Compensation (JUL 1995). This clause applies only if this contract exceeds \$100,000. Buyer may withhold or recover from Seller such sums as the Contracting Officer withholds or recovers from Buyer because of liabilities of Seller or its subcontractors under this clause.

(20) 52.222-20 Walsh-Healey Public Contracts Act (DEC 1996). This clause applies only if this contract exceeds \$10,000.

(21) 52.222-21 Prohibition of Segregated Facilities (FEB 1999)

(22) 52.222-26 Equal Opportunity (APR 1984) [subparagraphs (b)(1) through (11)]. Paragraph (b)(1) is modified by adding the following: "(Note: It shall not be a violation of E.O. 11246 for a contractor to extend a publicly announced preference to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. See 22.807(b)(4).)" The second sentence in paragraph (b)(7) is modified to read as follows:

"The Contractor shall, within 30 days following the award, file Standard Form 100 (EEO-1), or any successor form, unless filed within 12 months preceding the date of award."

(23) 52.222-35 Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (APR 1998). This clause applies only if this contract is for \$10,000 or more.

(24) 52.222-36 Affirmative Action for Workers With Disabilities (JUN 1998). This clause applies only if this contract exceeds \$10,000.

(25) 52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (JAN 1999). This clause applies only if this contract is for \$10,000 or more.

(26) 52.223-14 Toxic Chemical Release Reporting (OCT 2000) [excluding paragraph (e)]. This clause applies only if this contract was competitively awarded, exceeds \$100,000 (including all options), is not for commercial items as defined in FAR Part 12 and Seller has a SIC designation of major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33.

(27) 52.225-13 Restrictions on Certain Foreign Purchases (JUL 2000)

(28) 52.227-1 Authorization and Consent (JUL 1995), Alternate I (APR 1984)

(29) 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996). This clause applies only if this contract exceeds \$100,000. A copy of each notice sent to the Government will be sent to Buyer.

(30) 52.244-5 Competition in Subcontracting (DEC 1996)

(31) 52.244-6 Subcontracts for Commercial Items and Commercial Components (OCT 1998)

(32) 52.245-2 Government Property (DEC 1989)

(33) 52.247-64 Preference for Privately-Owned U.S. Flag Commercial Vessels (JUN 97). This clause applies only if this contract exceeds the small purchase limitation. Except in paragraph (C)(2) "20" and "30" are changed to 10 and 20 respectively.

(b) The following contract clauses are incorporated by reference from the Department of Defense Federal Acquisition Regulation Supplement and apply to the extent indicated. In all of the following clauses, "Contractor" and "Offeror" shall mean Seller.

(1) 252.203-7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (MAR 1999). This clause applies only if this contract exceeds \$100,000 and is not for commercial items or components.

(2) 252.204-7000 Disclosure of Information (DEC 1991). Seller will submit requests for authorization to release through Buyer.

(3) 252.209-7000 Acquisition From Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty (NOV 1995). This clause applies only if this contract exceeds \$100,000 and is not for commercial items.

(4) 252.215-7000 Pricing Adjustments (DEC 1991)

- (5) 252.219-7003 Small Business and Small Disadvantaged Business Subcontracting Plan (DoD Contracts) (APR 1996)
- (6) 252.225-7012 Preference for Certain Domestic Commodities (SEP 1997)
- (7) 252.225-7026 Reporting of Contract Performance Outside the United States (JUN 2000). This clause applies only if this contract exceeds \$500,000 and is not for commercial items, construction, ores, natural gases, utilities, petroleum products and crudes, timber (logs), or subsistence.
- (8) 252.227-7013 Rights in Technical Data -- Noncommercial Items (NOV 1995), Alternate I (JUN 1995). This clause applies only if this contract requires Seller to provide noncommercial technical data to Buyer for delivery to the Government.
- (9) 252.227-7014 Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation (JUN 1995). This clause applies only if this contract requires Seller to provide noncommercial computer software or noncommercial computer software documentation to Buyer for delivery to the Government.
- (10) 252.227-7016 Rights in Bid or Proposal Information (JUN 1995)
- (11) 252.227-7019 Validation of Asserted Restrictions -- Computer Software (JUN 1995). This clause applies only if this contract requires Seller to provide computer software to Buyer for delivery to the Government.
- (12) 252.227-7030 Technical Data - Withholding of Payment (OCT 1988). In this clause, "Government" and "Contracting Officer" shall mean Buyer. This clause applies only if the delivery of technical data is required under this contract.
- (13) 252.227-7036 Certification of Technical Data Conformity (JAN 1997). This clause applies only if the delivery of technical data is required under this contract.
- (14) 252.227-7037 Validation of Restrictive Markings on Technical Data (NOV 1995). This clause applies only if the delivery of technical data is required under this contract and the contract is not for commercial items or commercial components.
- (15) 252.231-7000 Supplemental Cost Principles (DEC 1991)
- (16) 252.235-7002 Animal Welfare (DEC 1991). This clause applies only if this contract involves research of live vertebrate animals.
- (17) 252.245-7001 Reports of Government Property (MAY 1994). Seller will provide information Buyer may require to complete Buyer's annual report.
- (18) 252.247-7023 Transportation of Supplies by Sea (MAR 2000). This clause applies only if this contract exceeds \$100,000 and the supplies being transported are noncommercial items or commercial items that (i) Seller is reselling or distributing to the Government without adding value (generally, Seller does not add value to items that it contracts for f.o.b. destination shipment); (ii) are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or (iii) are commissary or exchange cargoes transported outside the Defense Transportation System in accordance with 10 U.S.C. 2643.

(19) 252.247-7024 Notification of Transportation of Supplies by Sea (NOV 1995). "Contracting Officer" and, in the first sentence of paragraph (a), "Contractor" mean Buyer. This clause applies only if the supplies being transported are noncommercial items or commercial items that (i) Seller is reselling or distributing to the Government without adding value (generally, Seller does not add value to items that it contracts for f.o.b. destination shipment); (ii) are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or (iii) are commissary or exchange cargoes transported outside the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) Cost Accounting Standards

If clause 383 or 384 is incorporated in this contract, the FAR designation for the "Administration of Cost Accounting Standards" clause is hereby changed from FAR 52.230-5 (AUG 1992) to FAR 52.230-6 (NOV 1999) and the dates of the "Cost Accounting Standards" and "Disclosure and Consistency of Cost Accounting Practices" clauses are hereby changed from AUG 1992 to APR 1998.

(d) Cost and Pricing Data

If clause 307 or 308 is incorporated in this contract, the following changes are made:

(1) In paragraph (a): Delete "FAR 52.215-25" and substitute in lieu thereof "FAR 52.215-13 (OCT 1997)." Delete the words "in effect on the date of this contract." In clause 307 only, delete "FAR 52.215-24" and substitute in lieu thereof "FAR 52.215-12 (OCT 1997)."

(2) In paragraph (b)(1): Delete "FAR 15.804-2, 15.804-4, 15.804-6, 15.806-1, and 15.806-2, in effect on the date of this contract" and substitute in lieu thereof "FAR 15.403-4, 15.403-5, 15.404-3, and 15.406-2, in effect on August 20, 2001."

(3) In paragraph (b)(3): Delete "FAR 52.215-22(d) or 52.215-23(e)" and substitute in lieu thereof "FAR 52.215-10(d) (OCT 1997) or 52.215-11(e) (OCT 1997)."

(4) In paragraph (b)(5): Delete "FAR 52.215-22(c)(1)" and substitute in lieu thereof "FAR 52.215-10(c)(1) (OCT 1997)."