

**CLAUSES FOR PURCHASE ORDERS AND BLANKET PURCHASE AGREEMENTS
AWARDED BY OVERSEAS CONTRACTING ACTIVITIES
(Current thru FAC 2005-44 dated July 8, 2010)**

COMMERCIAL ITEMS

FAR 52.252-2 Clauses Incorporated By Reference (FEB 1998)

This purchase order or BPA incorporates the following clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this address:

<http://www.acqnet.gov/far>

DOSAR clauses may be accessed at: <http://www.statebuy.state.gov/dosar/dosartoc.htm>

FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1) CLAUSES

NUMBER	TITLE	DATE
52.204-9	Personal Identity Verification of Contractor Personnel (if contractor requires physical access to a federally-controlled facility or access to a Federal information system)	SEP 2007
52.212-4	Contract Terms and Conditions – Commercial Items (Alternate I (FEB 2007) of 52.212-4 applies if the order is time-and-materials or labor-hour)	FEB 2007
52.225-19	Contractor Personnel in a Diplomatic or Consular Mission Outside the United States (applies to services at danger pay posts only)	MAR 2008
52.227-19	Commercial Computer Software License (if order is for software)	DEC 2007
52.228-3	Workers' Compensation Insurance (Defense Base Act) (if order is for services and contractor employees are covered by Defense Base Act insurance)	APR 1984
52.228-4	Workers' Compensation and War-Hazard Insurance (if order is for services and contractor employees are not covered by Defense Base Act insurance)	APR 1984

The following clause is provided in full text:

52.212-5 Contract Terms and Conditions Required Implement Statutes or Executive Orders - Commercial Items (JULO 2010)

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-50, Combating Trafficking in Persons (Feb 2009) (22 U.S.C. 7104(g).

Alternate I (Aug 2007) of 52.222-50 (22 U.S.C. 714(g).

(2) 52.233-3, Protest after Award (AUG 1996) (31 U.S.C. 3553);

(3) 52.233-4, Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The Contractor shall comply with the FAR clauses in this paragraph (b) that the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items

[Contracting Officer check as appropriate]

	Clause Number and Title
	(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (SEPT 2006), with Alternate I (OCT 1995) (41 U.S.C. 253g and 10 U.S.C. 2402). <i>[Check if order exceeds \$100,000]</i>
	(2) 52.203.-13, Contractor Code of Business Ethics and Conduct (APR 2010) (Pub L. 110-252, Title VI, Chapter 1
	(3) 52.203.15, Whistleblower protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009
	(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontracts Awards (JUL 2010) (Pub. L. 109-282).
	(5) 52.204-11, American Recovery and Reinvestment Act – Reporting Requirements (JUL 2010)
	(6) 52.219-3, Notice of Total HUBZone Set-Aside (JAN 1999)
	(7) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (JUL 2005) (if the offeror elects to waive the preference, it shall so indicate in its offer)
	(8) [Reserved]
	(9)(i) 52.219-6, Notice of Total Small Business Set-Aside (JUN 2003) (ii) Alternate I (OCT 1995) of 52.219-6 (iii) Alternate II (MAR 2004) of 52.219-6
	(10)(i) 52.219-7, Notice of partial Small Business Set-Aside (JUN 2003) (ii) Alternate I (OCT 1995) of 52.219-7 (iii) Alternate II (MAR 2004)of 52.219-7
	(11) 52.219-8, Utilization of Small Business Concerns (MAY 2004)
	(12)(i) 52.219-9, Small Business Subcontracting Plan (APR 2008) (ii) Alternate I (OCT 2001) (iii) Alternate II (OCT 2001)
	(13) 52.229-14, Limitations on Subcontracting (DEC 1996)
	(14) 52.219-16, Liquidated Damages – Subcontracting Plan (JAN 1999)
	(15)(i) 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns (OCT 2008) (if offeror elects to waive the adjustment, it shall so indicate in its offer). (ii) Alternate I (JUN 2003 of 52.219-23
	(16) 52.219-25, Small Disadvantaged Business Participation Program – Disadvantaged Status and Reporting (APR 2008)
	(17) 52.219-26, Small Disadvantaged Business Participation Program – Incentive subcontracting (OCT 2000)
	(18) 52.219-27, Notice of Total Service-Disabled Veteran-owned Small Business Set-Aside (MAT 2004)
	(19) 52.219-28, Post Award Small Business Program Representation (APR 2009)
	(20) 52.222-3, Convict labor (JUN 2003) (E.O. 11755)
	(21) 52.222-19, Child Labor – Cooperation with Authorities and Remedies (AUG 2007) (E.O. 13126). <i>[Check if order is for supplies and exceeds the micro-purchase threshold]</i>
	(22) 52.222-21, Prohibition of Segregated Facilities (FEB 1999). <i>[Check if the following apply: for supplies, the order exceeds \$10,000 and is awarded to a U.S. firm. For services, the order exceeds \$10,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]</i>
	(23) 52.222-26, Equal Opportunity (FEB 2008) (E.O. 11246). <i>[Check if the following apply: for supplies, the order exceeds \$10,000 and is awarded to a U.S. firm. For services, the order exceeds \$10,000 and is awarded to a U.S. firm whose employees who will be performing the work were</i>

	<i>recruited within the U.S.]</i>
	(24) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) (38 U.S.C. 4212). <i>[Check if the following apply: for supplies, the order exceeds \$100,000 and is awarded to a U.S. firm. For services, the order exceeds \$100,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]</i>
	(25) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793). <i>[Check if the following apply: for supplies, the order exceeds \$10,000 and is awarded to a U.S. firm. For services, the order exceeds \$10,000 and is awarded to a U.S. firm whose employees who will be performing the work were recruited within the U.S.]</i>
	(26) 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) (38 U.S.C. 4212). <i>[Check if you have included the clause 52.222-35]</i>
	(27) 52.222-39, Notification of Employee Rights Concerning Payment of Union Dues or Fees (DEC 2004) (E.O. 13201). Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803. <i>[Check if the order is for services and the amount exceeds \$100,000]</i>
	(28)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated items (MAY 2008) (Not applicable to the acquisitions of commercially available off-the-shelf items.) (ii) Alternate I (May 2008) of 52.223-9 (Not applicable to the acquisition of commercially available off-the-shelf items.)
	(29) 52.223-15, Energy Efficiency in Energy-Consuming Products (DEC 2007)
	(30)(i) 52.223-16, IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products 9DEC 2007 (ii) Alternate I (DEC 2007) of 52.223-17
	(31) 52.225-1, Buy American Act – Supplies (FEB 2009)
	(32)(i) 52.225-3, Buy American Act – Free Trade Agreements – Israeli Trade Act (JUN 2009) (ii) Alternate I (JAN 2004) of 52.225-3 (iii) Alternate II (JAN 2004) of 52.225-3
	(33) 52.225-5, Trade Agreements (AUG 2009) <i>[Check if the order is for supplies or services that involve the acquisition of supplies and the amount exceeds \$194,000]</i>
	(34) 52.225-13, Restrictions on Certain Foreign Purchases (JUN 2009) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury). <i>[Check if the order is for either supplies or services and the amount exceeds the micro-purchase threshold, unless authorized by OFAC]</i>
	(35) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (NOV 2007)
	(36) 52.226-5, Restrictions on Subcontracting outside Disaster or Emergency Area (NOV 2007)
	(37) 52.232-29, Terms for Financing of Purchases of Commercial Items (FEB 2002)
	(38) 52.232-30, installment Payments for Commercial Items (OCT 1995)
	(39) 52.232-33, Payment by Electronic Funds Transfer – Central Contractor Registration (OCT 2003) (31 U.S.C. 3332). <i>[Check if payment will be made by EFT and the contractor has registered in the CCR]</i>
	(40) 52.232-34, Payment by Electronic Funds Transfer – Other than Central Contractor Registration (MAY 1999) (31 U.S.C. 3332). <i>[Check if payment will be made by either EFT or other means, e.g., check, and the contractor has not registered in the CCR]</i>
	(41) 52.232-36, Payment by Third Party (FEB 2010) (31 U.S.C. 3332). <i>[Check if payment will be made by a third party, e.g., purchase card]</i>
	(42) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a). <i>[Check if the order is for information technology which requires security of information technology, and/or is for the design, development, or operation of a system of records using commercial information technology]</i>

	<i>services or support services]</i>
	(40)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) [Check if the order is for supplies that may involve ocean transportation: at least 50% of the gross tonnage must be transported on privately owned U.S.-flag commercial vessels to the extent that such vessels are available at rates that are fair and reasonable for U.S.-flag commercial vessels] (ii) Alternate I (APR 2003) of 52.247-64. [Check if 100% of the supplies will be transported on privately owned U.S.-flag commercial vessels]

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial items, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial Items:

[Contracting officer check as appropriate.]

	Clause Number and Title
	(1) 52.222-41, Service Contract Act of 1965 (NOV 2007).
	(2) 52.222-42, Statement of Equivalent Rates for Federal Hires (MAY 1989)
	(3) 52.222-43, Fair labor Standards Act and Service Contract Act – Price Adjustment (Multiple Year and Option Contracts) (SEP 2009)
	(4) 52.222-44, Fair labor Standards Act and Service Contract Act – Price Adjustment (SEP 2009)
	(5) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment – Requirements (NOV 2007)
	(6) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Certain Services – Requirements (FEB 2009)
	(7) 52,226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009)
	(8) 52.237-11, Accepting and Dispensing of \$1 Coin (SEP 2008) (31 U.S.C. 5112(p)(1)). <i>[Check if order is for services that involve business operations conducted in U.S. coin and currency, including vending machines]</i>

(d) *Comptroller General Examination of Record.* The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records -- Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor’s directly pertinent records involving transactions related to this contract.

(2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) [This paragraph applies only if award is made to a U.S. firm, except for item (vii) which applies to all orders.] Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in paragraphs (i) through (vii) of this paragraph in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause –

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (APR 2010).

(ii) 52.219-8, Utilization of Small Business Concerns (MAY 2004) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (SEPT 2006) (38 U.S.C. 4212).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(vii) [Reserved]

(viii) 52.222-41, Service Contract Act of 1965 (NOV 2007).

(ix) 52.222-50, Combating Trafficking in Persons (FEB 2009). Flow down required in accordance with paragraph (f) of FAR clause 52.222-50.

Alternate I (AUG 2007).

(x) 52.222-51, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (NOV 2007).

(xi) 52.222-53, Exemption from Application of the Service Contract Act to Contracts for Services - Requirements

(xii) 52.222-54, employment Eligibility Verification (JAN 2009)

(xiii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xiv) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64).

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

(End of clause)

DEPARTMENT OF STATE ACQUISITION REGULATION (48 CFR Chapter 6) CLAUSES

NUMBER	TITLE	DATE
652.225-71	Section 8(a) of the Export Administration Act of 1979, As Amended (if order exceeds \$100,000)	AUG 1999
652.228-71	Workers Compensation Insurance (Defense Base Act) – Services (for services to be performed overseas when the contract includes covered contractor employees as defined in paragraph (a) of the clause) Fill-in for paragraph (c): “(c) The current rate under the Department of State contract is [contracting officer insert rate] of compensation for services.”	JUN 2006
652.229-70	Excise Tax Exemption Statement for Contractors Within the United States (for supplies to be delivered to an overseas post)	JUL 1988
652.229-71	Personal Property Disposition at Posts Abroad	AUG 1999
652.237-72	Observance of Legal Holidays and Administrative Leave (for services where	APR 2004

	performance will be on-site in a Department of State facility)	
652.239-71	Security Requirements for Unclassified Information Technology Resources (for orders that include information technology resources or services in which the contractor will have physical or electronic access to Department information that directly supports the mission of the Department)	SEP 2007
652.242-70	Contracting Officer's Representative (if a COR will be named for the order) Fill-in for paragraph b: "The COR is _____"	AUG 1999
652.242-71	Notice of Shipments (for overseas shipment of supplies)	JUL 1988
652.242-73	Authorization and Performance	AUG 199
652.243-70	Notices	AUG 1999

The following clause is provided in full text, and is applicable for orders for services that will require contractor employees to perform on-site at a DOS location and/or that require contractor employees to have access to DOS information systems:

Department of State Personal Identification Card Issuance Procedures

(a) The Contractor shall comply with the Department of State (DOS) Personal Identification Card Issuance Procedures for all employees performing under this contract who require frequent and continuing access to DOS facilities, or information systems. The Contractor shall insert this clause in all subcontracts when the subcontractor's employees will require frequent and continuing access to DOS facilities, or information systems.

(b) The DOS Personal Identification Card Issuance Procedures may be accessed at <http://www.state.gov/m/ds/rls/rpt/c21664.htm> .

(End of clause)