Commercial Products and Commercial Services

52.212-1 Instructions to Offerors—Commercial Products and Commercial Services.

As prescribed in 12.301(b)(1), insert the following provision:

Instructions to Offerors—Commercial Products and Commercial Services (Nov 2021)

(a) *North American Industry Classification System (NAICS) code and small business size standard.* The NAICS code(s) and small business size standard(s) for this acquisition appear elsewhere in the solicitation. However, the small business size standard for a concern that submits an offer, other than on a construction or service acquisition, but proposes to furnish an end item that it did not itself manufacture, process, or produce is 500 employees if the acquisition—

(1)Is set aside for small business and has a value above the simplified acquisition threshold;

(2)Uses the HUBZone price evaluation preference regardless of dollar value, unless the offeror waives the price evaluation preference; or

(3)Is an 8(a), HUBZone, service-disabled veteran-owned, economically disadvantaged women-owned, or women-owned small business set-aside or sole-source award regardless of dollar value.

(b) *Submission of offers*. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show—

(1) The solicitation number;
(2) The time specified in the solicitation for receipt of offers;
(3) The name, address, and telephone number of the offeror;
(4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
(5) Terms of any express warranty;
(6) Price and any discount terms;
(7) "Remit to" address, if different than mailing address;
(8) A completed copy of the representations and certifications at Federal Acquisition Regulation (FAR) 52.212-3 (see FAR 52.212-3(b) for those representations and certifications that the offeror shall complete electronically);
(9) Acknowledgment of Solicitation Amendments;
(10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
(11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

(c) *Period for acceptance of offers*. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.

(d) *Product samples*. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender’s request and expense, unless they are destroyed during preaward testing.

(e) *Multiple offers*. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions, including alternative line items (provided that the alternative line items are consistent with FAR subpart 4.10), or alternative commercial products or commercial services for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.

(f) Late submissions, modifications, revisions, and withdrawals of offers.

(1) Offerors are responsible for submitting offers, and any modifications, revisions, or withdrawals, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that offers or revisions are due.

(2) (i) Any offer, modification, revision, or withdrawal of an offer received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and-

(A) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of offers; or

(B) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(C) If this solicitation is a request for proposals, it was the only proposal received.

(ii) However, a late modification of an otherwise successful offer, that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(3) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the offer wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(4) If an emergency or unanticipated event interrupts normal Government processes so that offers cannot be received at the Government office designated for receipt of offers by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation or other notice of an extension of the closing date, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(5) Offers may be withdrawn by written notice received at any time before the exact time set for receipt of offers. Oral offers in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for receipt of offers, subject to the conditions specified in the solicitation concerning facsimile offers. An offer may be withdrawn in person by an offeror or its authorized representative if, before the exact time set for receipt of offers, the identity of the person requesting withdrawal is established and the person signs a receipt for the offer.

(g) *Contract award (not applicable to Invitation for* Bids). The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.

(h) *Multiple awards*. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.

(i) Availability of requirements documents cited in the solicitation.

(1) (i) The GSA Index of Federal Specifications, Standards and Commercial Item Descriptions, FPMR Part 101-29, and copies of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained for a fee by submitting a request to-

GSA Federal Supply Service Specifications Section
Suite 8100 470 East L'Enfant Plaza, SW
Washington, DC 20407
Telephone (202) 619-8925
Facsimile (202) 619-8978.

(ii) If the General Services Administration, Department of Agriculture, or Department of Veterans Affairs issued this solicitation, a single copy of specifications, standards, and commercial item descriptions cited in this solicitation may be obtained free of charge by submitting a request to the addressee in paragraph (i)(1)(i) of this provision. Additional copies will be issued for a fee.

(2) Most unclassified Defense specifications and standards may be downloaded from the following ASSIST websites:

(i) ASSIST (https://assist.dla.mil/online/start/).

(ii) Quick Search (http://quicksearch.dla.mil/).

(3) Documents not available from ASSIST may be ordered from the Department of Defense Single Stock Point (DoDSSP) by-

(i) Using the ASSIST Shopping Wizard (https://assist.dla.mil/wizard/index.cfm);

(ii) Phoning the DoDSSP Customer Service Desk (215) 697-2179, Mon-Fri, 0730 to 1600 EST; or

(iii) Ordering from DoDSSP, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111-5094, Telephone (215) 697-2667/2179, Facsimile (215) 697-1462.

(4) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication, or maintenance.

(j) *Unique entity identifier.*(Applies to all offers that exceed the micro-purchase threshold, and offers at or below the micro-purchase threshold if the solicitation requires the Contractor to be registered in the System for Award

Management (SAM).) The Offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "Unique Entity Identifier" followed by the unique entity identifier that identifies the Offeror's name and address. The Offeror also shall enter its Electronic Funds Transfer (EFT) indicator, if applicable. The EFT indicator is a four-character suffix to the unique entity identifier. The suffix is assigned at the discretion of the Offeror to establish additional SAM records for identifying alternative EFT accounts (see FAR subpart 32.11) for

the same entity. If the Offeror does not have a unique entity identifier, it should contact the entity designated at www.sam.gov for unique entity identifier establishment directly to obtain one. The Offeror should indicate that it is an offeror for a Government contract when contacting the entity designated at www.sam.gov for establishing the unique entity identifier.

(k) [Reserved]

(l) *Debriefing*. If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(1) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(2) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(3) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(4) A summary of the rationale for award;

(5) For acquisitions of commercial products, the make and model of the product to be delivered by the successful offeror.

(6) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

52.212-2 Evaluation—Commercial Products and Commercial Services.

As prescribed in 12.301(c), the Contracting Officer may insert a provision substantially as follows:

Evaluation—Commercial Products and Commercial Services (Nov 2021)

(a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered. The following factors shall be used to evaluate offers:

Price, technical capability, past performance and delivery time

(b) *Options*. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).

(c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

(End of provision)

52.252-1 Solicitation Provisions Incorporated by Reference.

This solicitation incorporates one or more solicitation provisions 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. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

www.acquisition.gov

(End of provision)

52.252-2 Clauses Incorporated by Reference.

This contract incorporates one or more 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/these address(es):

www.acquisition.gov

(End of clause)

Section III: Clauses

FAR 52.212-4 - Contract Terms and Conditions—Commercial Products and Commercial Services (Nov 2023)

Addendum to FAR 52.212-4, Contract Terms and Conditions—Commercial Products and Commercial Services

FAR 52.204-13 - System for Award Management Maintenance. (Oct 2018)
FAR 52.204-18 - Commercial and Government Entity Code Maintenance (Aug 2020)

FAR 52.212-5 - Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (Feb 2024)

(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 products and commercial services:

(1) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (Dec 2023) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).

(4) 52.209-10, Prohibition on Contracting with Inverted Domestic Corporations (Nov 2015).

(5) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801).

(6) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(7) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805 note)).

(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 products and commercial services:
[Contracting Officer check as appropriate.]

☐ (1) 52.203-6; Restrictions on Subcontractor Sales to the Government (June 2020) with *Alternate I* (Nov 2021) (41 U.S.C. 4704 and 10 U.S.C. 4655).
☐ (2) 52.203-13, Contractor Code of Business Ethics and Conduct (Nov 2021)(41 U.S.C. 3509)).
☐ (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) 52.230-17, Contractor Employee Whistleblower Rights (Nov 2023)(41 U.S.C. 4712); this clause does not apply to contracts of DoD, NASA, the Coast Guard, or applicable elements of the intelligence community – See FAR 3.900(a).

☐ (5) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Jun 2020) (Pub. L. 109-282) (31 U.S.C. 6101 note).
☐ (6) [Reserved].
☐ (7) 52.204-14, Service Contract Reporting Requirements (Oct 2016) (Pub. L. 111-117,
☐ (8) 52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Oct 2016) (Pub. L. 111-117, section 743 of Div. C).
☒ (9) 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division R of Pub. L. 117-328).
☐ (10) 52.204–28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts. (Dec 2023) (Pub. L. 115–390, title II).
☐ (11) (i) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (Dec 2023) (Pub. L. 115–390, title II).
☐ (ii) Alternate I (Dec 2023) of 52.204–30.
☐ (12) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Nov 2021) (31 U.S.C. 6101 note).
☐ (13) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).
☐ (14) [Reserved].
☐ (15) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Oct 2022)(15 U.S.C. 675a).
☐ (16) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
☐ (17) [Reserved]
☒ (18)(i) 52.219-6, Notice of Total Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).
☐ (ii) Alternate I (Mar 2020) of 52.219-6.
☐ (19)(i) 52.219-7, Notice of Partial Small Business Set-Aside (Nov 2020) (15 U.S.C. 644).
☐ (ii) Alternate I (Mar 2020) of 52.219-7.
☐ (20) 52.219-8, Utilization of Small Business Concerns (Feb 2024)(15 USC 637(d)(2) & (3)).
☐ (21)(i) 52.219-9, Small Business Subcontracting Plan (Sep 2023) (15 U.S.C. 637(d)(4)).
☐ (ii) Alternate I (Nov 2016) of 52.219-9.
☐ (iii) Alternate II (Nov 2016) of 52.219-9.
☐ (iv) Alternate III (Jun 2020) of 52.219-9.
☐ (v) Alternate IV (Sep 2023) of 52.219-9.

☐ (22)(i) 52.219-13, Notice of Set-Aside of Orders (Mar 2020) (15 U.S.C. 644(r)).
☒ (ii) Alternate I (Mar 2020) of 52.219-13.
☐ (23) 52.219-14, Limitations on Subcontracting (Oct 2022) (15 U.S.C. 637s).
☐ (24) 52.219-16, Liquidated Damages—Subcontracting Plan (Sep 2021)(15 U.S.C. 637(d)(4)(F)(i).
☐ (25) 52.219-27, Notice of Set-Aside for, or Sole-Source Award to, Service-Disabled Veteran-Owned Small Business (SDVOSB) Concerns Eligible Under the SDVOSB Program (Feb 2024) (15 U.S.C. 657f).
☒ (26)(i) 52.219-28, Post Award Small Business Program Rerepresentation (Feb 2024)(15 U.S.C. 632(a)(2)).
☐ (ii) Alternate I (Mar 2020) of 52.219-28.
☐ (27) 52.219-29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Oct 2022) (15 U.S.C. 637(m)).
☐ (28) 52.219-30, Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (Oct 2022) (15 U.S.C. 637(m)).
☐ (29) 52.219-32, Orders Issued Directly Under Small Business Reserves (Mar 2020) (15 U.S.C. 644(r)).
☐ (30) 52.219-33, Nonmanufacturer Rule (Sep 2021) (15U.S.C. 637(a)(17)).
☒ (31) 52.222-3, Convict Labor (Jun 2003) (E.O.11755).
☐ (32) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (Feb 2024)
☐ (33) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
☒ (34)(i) 52.222-26, Equal Opportunity (Sep 2016) (E.O.11246).
☐ (ii) Alternate I (Feb 1999) of 52.222-26.
☐ (35)(i) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
☐ (ii) Alternate I (Jul 2014) of 52.222-35.
☐ (36)(i) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020)(29 U.S.C. 793).
☐ (ii) Alternate I (Jul 2014) of 52.222-36.
☐ (37) 52.222-37, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
☐ (38) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
☒ (39)(i) 52.222-50, Combating Trafficking in Persons (Nov 2021) (22 U.S.C. Chapter 78 and E.O. 13627).
☐ (ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
☐ (40) 52.222-54, Employment Eligibility Verification (May 2022) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR 22.1803.)
☐ (41)(i) 52.223-9, Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) (42 U.S.C. 6962(c)(3)(A)(ii)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
☐ (ii) Alternate I (May 2008) of 52.223-9 (42 U.S.C. 6962(i)(2)(C)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
☐ (42) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).

☐ (43) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
☐ (44)(i) 52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment (Jun 2014) (E.O.s 13423 and 13514).
☐ (ii) Alternate I (Oct 2015) of 52.223-13.
☐ (45)(i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
☐ (ii) Alternate I (Jun2014) of 52.223-14.
☐ (46) 52.223-15, Energy Efficiency in Energy-Consuming Products (May 2020)(42 U.S.C. 8295b).
☐ (47)(i) 52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015) (E.O.s 13423 and 13514).
☐ (ii) Alternate I (Jun 2014) of 52.223-16.
☐ (48) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Jun 2020) (E.O. 13513).
☐ (49) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).
☐ (50) 52.223-21, Foams (Jun2016) (E.O. 13693).
☐(51)(i) 52.224-3 Privacy Training (Jan 2017) (5 U.S.C. 552 a).
☐ (ii) Alternate I (Jan 2017) of 52.224-3.
☐ (52)(i) 52.225-1, Buy American-Supplies (Oct 2022) (41 U.S.C. chapter 83).
☐ (ii) Alternate I (Oct 2022) of 52.225-1.
☐ (53)(i) 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (Dec 2022) (19 U.S.C. 3301 note, 19 U.S.C. 2112 note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.
☐ (ii) Alternate I [Reserved].
☐ (iii) Alternate II (Dec 2022) of 52.225-3.
☐ (iv) Alternate III (Jan 2021) of 52.225-3.
☐ (v) Alternate IV (Oct 2022) of 52.225-3.
☐ (54) 52.225-5, Trade Agreements (Dec 2022) (19 U.S.C. 2501, et seq., 19 U.S.C. 3301 note).
☒ (55) 52.225-13, Restrictions on Certain Foreign Purchases (Feb 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
☐ (56) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
☐ (57) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007)(42 U.S.C. 5150).
☐ (58) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
☐ (59) 52.229-12, Tax on Certain Foreign Procurements (Feb 2021).
☐ (60) 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).
☐ (61) 52.232-30, Installment Payments for Commercial Products and Commercial Services (Nov 2021) (41 U.S.C. 4505, 10 U.S.C. 3805).
☒ (62) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (Oct 2018)(31 U.S.C. 3332).

☐ (63) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013)(31 U.S.C. 3332).
☐ (64) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C. 3332).
☐ (65) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
☐ (66) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(13).
☐ (67)(i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (46 U.S.C. 55305 and 10 U.S.C. 2631).
☐ (ii) Alternate I (Apr 2003) of 52.247-64.
☐ (Iii) Alternate II (Nov 2021) of 52.247-64.

(c) The Contractor shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, 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 products and commercial services:
[Contracting Officer check as appropriate.]
(1) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. Chapter 67).
☐ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. Chapter 67).

☐ (3) 52.222-43, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts)(Aug 2018)(29 U.C.S. 206 and Chapter 41 U.S.C. Chapter 67).
☐ (4) 52.222-44, Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) (29 U.S.C.206 and 41 U.S.C. Chapter 67).
☐ (5) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014)(41 U.S.C. Chapter 67).
☐ (6) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. Chapter 67).
☐ (7) 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).
☐ (8) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706).
☐ (9) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792).

(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, as defined in FAR 2.101, on the date of award of this contract, 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, 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) 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 this paragraph (e)(1), in a subcontract for commercial products or commercial services. 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 (Nov 2021) (41 U.S.C. 3509).
(ii) 52.203-17, Contract Employee Whistleblower Rights (Nov 2023)(41 U.S.C. 4712)
(iii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).
(iv) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities (Dec 2023) (Section 1634 of Pub. L. 115-91).
(v) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021) (Section 889(a)(1)(A) of Pub. L. 115-232).
(vi) 52.204-27, Prohibition on a ByteDance Covered Application (Jun 2023) (Section 102 of Division R of Pub. L. 117-328).
(vii)(A) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (Dec 2023) (Pub. L. 115–390, title II).
(B) Alternate I (Dec 2023) of 52.204–30.
(viii) 52.219-8, Utilization of Small Business Concerns (Feb 2024) (15 U.S.C. 637(d)(2) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR 19.702(a) on the date of subcontract award, the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.
(ix) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
(x) 52.222-26, Equal Opportunity (Sep 2015) (E.O.11246).
(xi) 52.222-35, Equal Opportunity for Veterans (Jun 2020) (38 U.S.C. 4212).
(xii) 52.222-36, Equal Opportunity for Workers with Disabilities (Jun 2020) (29 U.S.C. 793).
(xiii) 52.222-37, Employment Reports on Veterans (Jun 2020) (38 U.S.C. 4212).
(xiv) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause 52.222-40.

(xv) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).
(xvi)(A) 52.222-50, Combating Trafficking in Persons (Nov 2021) (22 U.S.C. chapter 78 and E.O 13627).
(B) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter 78 and E.O. 13627).
(xvii) 52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) (41 U.S.C. chapter 67).
(xviii) 52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (May 2014) (41 U.S.C. chapter 67).
(xix) 52.222-54, Employment Eligibility Verification (May 2022) (E.O. 12989).
(xx) 52.222-55, Minimum Wages for Contractor Workers Under Executive Order 14026 (Jan 2022).
(xxi) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2022) (E.O. 13706).
(xxii)(A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a).
(B) Alternate I (Jan 2017) of 52.224-3.
(xxiii) 52.225-26, Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
(xxiv) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.
(xxv) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) (31 U.S.C. 3903 and 10 U.S.C. 3801). Flow down required in accordance with paragraph (c) of 52.232-40.
(xxvi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) (46 U.S.C. 55305 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 products and commercial services a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

The Contractor agrees to comply with any provision or clause that is incorporated herein by reference to implement agency policy applicable to acquisition of commercial items or components. The provision or clause in effect based on the applicable regulation cited on the date the solicitation is issued applies unless otherwise stated herein. The following provisions and clauses are incorporated by reference:

Provisions and Clauses:

52.204-19 Incorporation by Reference of Representations and Certifications. Dec 2014
52.204-23 Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab Covered Entities. Dec 2023
52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment. Nov 2021
52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. Nov 2021
52.204-26 Covered Telecommunications Equipment or Services-Representation. Oct 2020
52.204-29 Federal Acquisition Supply Chain Security Act Orders—Representation and Disclosures. Dec 2023
52.216-25 Contract Definitization. Oct 2010
52.216-25_Alternate I Apr 1984
52.222-50 Combating Trafficking in Persons. Oct 2025
52.222-50_Alternate I Mar 2015
52.225-25 Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications. Jun 2020
52.226-8 Encouraging Contractor Policies to Ban Text Messaging While Driving. MAY 2024
52.232-39 Unenforceability of Unauthorized Obligations. Jun 2013
52.232-40 Providing Accelerated Payments to Small Business Subcontractors. Mar 2023
52.233-4 Applicable Law for Breach of Contract Claim. Oct 2004
52.240-1 Prohibition on Unmanned Aircraft Systems Manufactured or Assembled by American Security Drone Act-Covered Foreign Entities. Nov 2024
52.244-6 Subcontracts for Commercial Products and Commercial Services. Oct 2025

For fixed-price supply contracts, specific FAR and Homeland Security Acquisition Regulation (HSAR) clauses are required based on the nature of the contract, funding source, and agency-specific requirements. Below is a list of commonly applicable clauses for fixed-price supply contracts, including both FAR and HSAR clauses:

FAR Clauses for Fixed-Price Supply Contracts

1. FAR 52.202-1 - Definitions
2. FAR 52.203-3 - Gratuities
3. FAR 52.203-5 - Covenant Against Contingent Fees
4. FAR 52.203-6 - Restrictions on Subcontractor Sales to the Government
5. FAR 52.203-7 - Anti-Kickback Procedures
6. FAR 52.204-10 - Reporting Executive Compensation and First-Tier Subcontract Awards
7. FAR 52.209-6 - Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment
8. FAR 52.211-17 - Delivery of Excess Quantities
9. FAR 52.212-4 - Contract Terms and Conditions—Commercial Items (if applicable to commercial supply contracts)
10. FAR 52.212-5 - Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (if applicable)
11. FAR 52.214-34 - Submission of Offers in the English Language
12. FAR 52.214-35 - Submission of Offers in U.S. Currency
13. FAR 52.219-8 - Utilization of Small Business Concerns
14. FAR 52.222-3 - Convict Labor
15. FAR 52.222-19 - Child Labor—Cooperation with Authorities and Remedies
16. FAR 52.222-21 - Prohibition of Segregated Facilities
17. FAR 52.222-26 - Equal Opportunity
18. FAR 52.222-36 - Equal Opportunity for Workers with Disabilities
19. FAR 52.223-3 - Hazardous Material Identification and Material Safety Data
20. FAR 52.223-18 - Encouraging Contractor Policies to Ban Text Messaging While Driving
21. FAR 52.225-1 - Buy American—Supplies
22. FAR 52.225-13 - Restrictions on Certain Foreign Purchases
23. FAR 52.232-1 - Payments
24. FAR 52.232-8 - Discounts for Prompt Payment
25. FAR 52.232-11 - Extras
26. FAR 52.232-25 - Prompt Payment
27. FAR 52.233-1 - Disputes
28. FAR 52.243-1 - Changes—Fixed-Price
29. FAR 52.246-2 - Inspection of Supplies—Fixed-Price
30. FAR 52.246-16 - Responsibility for Supplies
31. FAR 52.249-1 - Termination for Convenience of the Government (Fixed-Price) (Short Form)
32. FAR 52.249-8 - Default (Fixed-Price Supply and Service)

HSAR Clauses for Fixed-Price Supply Contracts Under the SAT

The Homeland Security Acquisition Regulation (HSAR) supplements the FAR and includes clauses specific to DHS contracts. Below are commonly applicable HSAR clauses for supply contracts:

1. HSAR 3052.204-71 - Contractor Employee Access
2. HSAR 3052.205-70 - Advertisement
3. HSAR 3052.209-72 - Organizational Conflict of Interest
4. HSAR 3052.209-70 - Prohibition on Contracts with Corporate Expatriates
5. HSAR 3052.212-70 - Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items
6. HSAR 3052.222-70 - Strikes or Picketing Affecting Timely Completion of the Contract Work
7. HSAR 3052.223-70 - Removal or Disposal of Hazardous Substances—Applicable Licenses and Permits
8. HSAR 3052.228-70 - Insurance
9. HSAR 3052.242-72 - Contracting Officer’s Technical Representative
10. HSAR 3052.247-70 - F.O.B. Origin Information