

COMMERCIAL PRODUCTS/SERVICES CLAUSES AND PROVISIONS MATRIX (FAR PART 12)

Per FAR 12.301

(a) In accordance with 41 U.S.C. 3307, contracts for the acquisition of commercial products or commercial services shall, to the maximum extent practicable, include only those clauses—

- (1) Required to implement provisions of law or executive orders applicable to the acquisition of commercial products or commercial services; or
- (2) Determined to be consistent with customary commercial practice.

See FAR 12.303 for the commercial products/services solicitation/contract format.

See FAR 12.603 for the combined synopsis/solicitation format.

See FAR 12.210 and FAR 32.2 for Commercial Product/Service Financing Arrangements.

See FAR 12.211 and FAR 27 regarding Technical Data and the rights to the data.

8(a) Contract - See HSAM Appendix X (Partnership Agreement between SBA and DHS) and FAR Class Deviation 06-02.

Note: This is a guide/matrix and it may not contain all applicable clauses/provisions that may be needed for your particular commercial product/service acquisition; it should be used as a tool. Contracting Officers and Contract Specialists should also review the FAR, HSAR, HSAM, CGAP, HCA-GMs/MLs, Deviations, etc when drafting solicitations. It is the responsibility of the Contracting Officer/Contract Specialist to insure the appropriate clauses and provisions are contained in their solicitations/contracts.

Note: See Section 3 of this guide/matrix before adding any clauses/provisions that are not included in Sections 1 and 2. The clauses/provisions listed in Section 3 are either (1) covered/addressed in other commercial product/service clauses/provisions and should not to be added again to your solicitation/contract or (2) not applicable to commercial product/service acquisitions and should not to be added to your solicitation/contract.

Abbreviations:

C – Clause

FT – Full Text required

LH – Labor Hour

T&M – Time & Material

MPT - Micro-Purchase Threshold, means \$10,000 (see FAR 2.1 for exceptions)

SAT - Simplified Acquisition Threshold, means \$250,000 (see FAR 2.1 for exceptions)

FFP – Firm Fixed Price

IBR – Incorporate by Reference authorized

P – Provision

FAR 2.101, Definitions

Commercial product means—

- (1) A product, other than real property, that is of a type customarily used by the general public or by nongovernmental entities for purposes other than governmental purposes, and—
 - (i) Has been sold, leased, or licensed to the general public; or
 - (ii) Has been offered for sale, lease, or license to the general public;
- (2) A product that evolved from a product described in paragraph (1) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;
- (3) A product that would satisfy a criterion expressed in paragraph (1) or (2) of this definition, except for—
 - (i) Modifications of a type customarily available in the commercial marketplace; or
 - (ii) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. “Minor modifications” means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;
- (4) Any combination of products meeting the requirements of paragraph (1), (2), or (3) of this definition that are of a type customarily combined and sold in combination to the general public;
- (5) A product, or combination of products, referred to in paragraphs (1) through (4) of this definition, even though the product, or combination of products, is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor; or
- (6) A nondevelopmental item, if the procuring agency determines the product was developed exclusively at private expense and sold in substantial quantities, on a competitive basis, to multiple State and local governments or to multiple foreign governments.

Commercial service means—

- (1) Installation services, maintenance services, repair services, training services, and other services if—
 - (i) Such services are procured for support of a commercial product as defined in this section, regardless of whether such services are provided by the same source or at the same time as the commercial product; and
 - (ii) The source of such services provides similar services contemporaneously to the general public under terms and conditions similar to those offered to the Federal Government;
- (2) Services of a type offered and sold competitively in substantial quantities in the commercial marketplace based on established catalog or market prices for specific tasks performed or specific outcomes to be achieved and under standard commercial terms and conditions. For purposes of these services—
 - (i) *Catalog price* means a price included in a catalog, price list, schedule, or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers, and states prices at which sales are currently, or were last, made to a significant number of buyers constituting the general public; and
 - (ii) *Market prices* means current prices that are established in the course of ordinary trade between buyers and sellers free to bargain and that can be substantiated through competition or from sources independent of the offerors; or
- (3) A service referred to in paragraph (1) or (2) of this definition, even though the service is transferred between or among separate divisions, subsidiaries, or affiliates of a contractor.

Commercially available off-the-shelf (COTS) item—

- (1) Means any item of supply (including construction material) that is—
 - (i) A commercial product (as defined in paragraph (1) of the definition of “commercial product” in this section);
 - (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.

SECTION 1 - CLAUSES

Below are the basic clauses for the acquisition of Commercial Products/Services. (FAR 12.301(b))

C / P	Clause/Provision	FT/IBR Fill-In	Prescription / Applicability
C	FAR 52.212-4 , Contract Terms and Conditions—Commercial Products and Commercial Services	IBR The Basic Clause has no Fill-ins The Clause with Alternate I has Fill-ins	<p>FAR 12.301(b)(3)</p> <p>Insert the clause in all solicitations/contracts for the acquisition of commercial products/services. This clause includes terms and conditions which are, to the maximum extent practicable, consistent with customary commercial practices.</p> <p>Use clause with its Alternate I when a T&M or LH contract will be awarded. (Alternate I has fill-ins)</p> <p>*Clause may be tailored, <u>except for paragraphs</u>: (b) Assignment, (d) Disputes, (g) Invoice, (i) Payment (<i>except as provided in FAR 32.11</i>), (q) Other Compliances, (r) Compliance with laws unique to Government Contracts, and (u) Unauthorized Obligations; see FAR 12.302(b).</p> <p>*See FAR 12.4 before tailoring the paragraphs in 52.212-4 for: (a) Inspection/Acceptance, (l) Termination for the Government's convenience, (m) Termination for cause and (o) Warranty.</p>
C	FAR 52.212-5 , Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Products and Commercial Services	FT	<p>FAR 12.301(b)(4)</p> <p>Insert clause in all solicitations/contracts for the acquisition of commercial products/services. This clause incorporates by reference only those clauses required to implement provisions of law or Executive orders applicable to the acquisition of commercial products/services. Some of the clauses require fill-in; the fill-in language should be inserted as directed by FAR <u>52.104(d)</u>.</p> <p>The Contracting Officer shall indicate in Clause 52.212-5 which of the other FAR Clauses are applicable to the solicitation/contract. (*See next page)</p> <p>When cost information is obtained pursuant to <u>Part 15</u> to establish the reasonableness of prices for commercial products/services, the contracting officer shall insert the clauses prescribed for this purpose in an addendum to the solicitation and contract.</p> <p>*Clause <u>may not</u> be tailored.</p> <p>Use Clause with its Alternate I when the head of the agency has waived the examination of records by the Comptroller General in accordance with <u>25.1001</u>.</p> <p>Use Clause with its Alternate II if the acquisition will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5)</p> <ul style="list-style-type: none"> In the case of a bilateral contract modification that will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, the Contracting Officer shall specify applicability of Alternate II to that modification. In the case of a task- or delivery-order contract in which not all orders will use funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, the Contracting Officer shall specify the task or delivery orders to which Alternate II applies. <p>The Contracting Officer may not use Alternate I when Alternate II applies.</p>

The clauses below must be checked, if applicable, in Clause 52.212-5 (b)-(c). Some of the below clauses require fill-in.

Clause	Fill-In	Prescription / Applicability
FAR 52.203-6 , Restrictions on Subcontractor Sales to the Government with Alternate I	No Fill-In	FAR 3.503-2 Insert the clause with its Alternate I in solicitations/contracts (for the acquisition of commercial products/services) exceeding the SAT.
FAR 52.203-13 , Contractor Code of Business Ethics and Conduct	No Fill-In	FAR 3.1004(a) Insert the clause in solicitations/contracts if the value of the contract is expected to exceed \$6 million and the performance period is 120 days or more.
FAR 52.203-15 , Whistleblower Protections under the American Recovery and Reinvestment Act of 2009	No Fill-In	FAR 3.907-7 Insert the clause in all solicitations/contracts funded in whole or in part with Recovery Act funds.
FAR 52.204-10 , Reporting Executive Compensation and First – Tier Subcontract Awards	No Fill-In	FAR 4.1403(a) and (b) Insert the clause in all solicitations and contracts of \$30,000 or more. The clause is not prescribed for contracts that are not required to be reported in the Federal Procurement Data System (FPDS) (see <u>subpart 4.6</u>).
FAR 52.204-14 , Service Contract Reporting Requirements.	No Fill-In	FAR 4.1705(a) Insert the clause in solicitations and contracts for <u>services</u> (including construction) that meet or exceed the thresholds at <u>4.1703</u> , except for indefinite-delivery contracts. This clause is not required for actions entirely funded by DoD, contracts awarded with a generic entity number, or in classified solicitations, contracts, or orders. *Per FAR 4.1703(a)(2) - Reporting is required according to the following thresholds: (i) All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above the SAT. (ii) All fixed-price service contracts awarded and orders issued according to the following thresholds: (A) Awarded or issued in FY 2014, with an estimated total value of \$2.5 million or greater. (B) Awarded or issued in FY 2015, with an estimated total value of \$1 million or greater. (C) Awarded or issued in FY 2016, <u>and subsequent years</u> , with an estimated total value of \$500,000 or greater.
FAR 52.204-15 , Service Contract Reporting Requirements for Indefinite-Delivery Contracts.	No Fill-In	FAR 4.1705(b) Insert the clause in solicitations and indefinite-delivery contracts for <u>services</u> (including construction) where one or more orders issued thereunder are expected to each meet or exceed the thresholds at <u>4.1703</u> . This clause is not required for actions entirely funded by DoD, contracts awarded with a generic entity number, or in classified solicitations, contracts, or orders. *Per FAR 4.1703(a)(2) - Reporting is required according to the following thresholds: (i) All cost-reimbursement, time-and-materials, and labor-hour service contracts and orders with an estimated total value above the simplified acquisition threshold. (ii) All fixed-price service contracts awarded and orders issued according to the following thresholds: (A) Awarded or issued in FY 2014, with an estimated total value of \$2.5 million or greater. (B) Awarded or issued in FY 2015, with an estimated total value of \$1 million or greater. (C) Awarded or issued in FY 2016, <u>and subsequent years</u> , with an estimated total value of \$500,000 or greater.

FAR 52.209-6 , Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.	No Fill-In	FAR 9.409 Insert the clause in solicitations and contracts where the contract value exceeds \$35,000.
FAR 52.209-9 , Updates of Publicly Available Information Regarding Responsibility Matters.	No Fill-In	FAR 9.104-7(c) Insert the clause— (1) In solicitations where the resultant contract value is expected to exceed \$600,000; and (2) In contracts in which the offeror checked “has” in paragraph (b) of the provision at <u>52.209-7</u> .
FAR 52.219-3 , Notice of HUBZone Set-Aside or Sole Source Award.	No Fill-In	FAR 19.1309(a) Insert the clause in solicitations/contracts for acquisitions that are set aside or awarded on a sole-source basis to, HUBZone small business concerns under <u>19.1305</u> or <u>19.1306</u> . This includes multiple-award contracts when orders may be set aside for HUBZone small business concerns as described in <u>8.405-5</u> and <u>16.505(b)(2)(i)(F)</u> or when orders may be issued directly to one HUBZone small business concern in accordance with <u>19.504(c)(1)(ii)</u> .
FAR 52.219-4 , Notice of Price Evaluation Preference for HUBZone Small Business Concerns.	No Fill-In	FAR 19.1309(b) Insert the clause in solicitations/contracts for acquisitions conducted using full and open competition.
FAR 52.219-6 , Notice of Total Small Business Set-Aside. (Alt I)	No Fill-In	FAR 19.507(c) Insert the clause in solicitations/contracts involving total Small Business set-asides. This includes multiple-award contracts when orders may be set aside for any of the small business concerns identified in <u>19.000(a)(3)</u> , as described in <u>8.405-5</u> and <u>16.505(b)(2)(i)(F)</u> . Use Alternate I when including FPI in the competition in accordance with 19.502-7. Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.
FAR 52.219-7 , Notice of Partial Small Business Set-Aside. (Alt I)	No Fill-In	FAR 19.507(d) Insert the clause in solicitations/contracts involving partial Small Business set-asides. This includes part or parts of multiple-award contracts, including those described in <u>38.101</u> . Use Alternate I when including FPI in the competition in accordance with 19.502-7. Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.
FAR 52.219-8 , Utilization of Small Business Concerns.	No Fill-In	FAR 19.708(a) Insert the clause in solicitations/contracts when the contract amount is expected to exceed the SAT <i>unless</i> — (1) A personal services contract is contemplated (see <u>37.104</u>); or (2) The contract, together with all of its subcontracts, will be performed entirely outside of the United States and its outlying areas.

FAR 52.219-9 , Small Business Subcontracting Plan. (Alt I, Alt II, Alt III, Alt IV)	No Fill-In	<p>FAR 19.708(b)(1)</p> <p>Insert the clause in solicitations/contracts that offer subcontracting possibilities, are expected to exceed \$750,000 (\$1.5 million for construction of any public facility), and are required to include the clause at <u>52.219-8</u>, unless the acquisition is set aside or is to be accomplished under the 8(a) program.</p> <p>Use Alternate I when contracting by sealed bidding rather than by negotiation.</p> <p>Use Alternate II when contracting by negotiation, and subcontracting plans are required with initial proposals as provided for in <u>19.705-2(d)</u>.</p> <p>Use Alternate III when the contract action will not be reported in the Federal Procurement Data System (FPDS) pursuant to <u>4.606(c)(5)</u>, or (c)(6).</p> <p>Use Alternate IV when incorporating a subcontracting plan due to a modification as provided for in <u>19.702(a)(1)(iii)</u>.</p> <p>Note: N/A to any set-aside or 8(a) program</p> <p>Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.</p>
FAR 52.219-13 , Notice of Set-Aside of Orders. (Alt I)	No Fill-In	<p>FAR 19.507(f) and 19.502-4</p> <p>Insert the clause in all solicitations for multiple-award contracts under which orders may be set aside for any of the small business concerns identified in 19.000(a)(3), and all contracts awarded from such solicitations</p> <p>Use Alternate I in all full and open solicitations and contracts for multiple-award contracts under which orders will be set aside for any of the small business concerns identified in 19.000(a)(3) if the conditions in 19.502-2 are met at the time of order set-aside, and the specific program eligibility requirements, as applicable, are also then met.</p> <p>Note: Only applicable if you intend to have multiple-award contracts.</p> <p>Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.</p>
FAR 52.219-14 , Limitations on Subcontracting.	No Fill-In	<p>FAR 19.507(e) and 19.811-3(e)</p> <p>Per FAR Class Deviation 22-02, do not check 52.219-14 as applicable in Clause 52.212-5. Instead include the full-text of FAR 52.219-14 (Deviation 22-02) if applicable.</p> <p>See the section below labeled “Clause Deviations, Special Agency Clauses, Etc” for information regarding applicability of FAR 52.219-14 (Deviation 22-02).</p>
FAR 52.219-16 , Liquidated Damages—Subcontracting Plan.	No Fill-In	<p>FAR 19.708(b)(2)</p> <p>Insert the clause in all solicitations/contracts containing the clause at <u>52.219-9</u>, Small Business Subcontracting Plan, or the clause with its Alternate I, II, III, or IV.</p> <p>Note: N/A to any set-asides or 8(a) program</p> <p>Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.</p>
FAR 52.219-27 , Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.	No Fill-In	<p>FAR 19.1408</p> <p>Insert the clause in solicitations and contracts for acquisitions that are set aside or awarded on a sole- source basis to, service-disabled veteran-owned small business concerns under <u>19.1405</u> and <u>19.1406</u>. This includes multiple-award contracts when orders may be set aside for service-disabled veteran-owned small business concerns as described in <u>8.405-5</u> and <u>16.505(b)(2)(i)(F)</u> or when orders may be issued directly to one service-disabled veteran-owned small business contractor in accordance with <u>19.504(c)(1)(ii)</u>.</p>
FAR 52.219-28 , Post-Award Small Business Program Rerepresentation. (Alt I)	Fill-In	<p>FAR 19.309(c)</p> <p>Insert the clause in solicitations and contracts exceeding the micro-purchase threshold when the contract is for supplies to be delivered or services to be performed in the United States or its outlying areas, or when the contracting officer has applied this part in accordance with <u>19.000(b)(1)(ii)</u>.</p> <p>Use Alternate I in solicitations and the resulting multiple-award contracts with more than one NAICS code. This is authorized for solicitations issued after October 1, 2022 (see 19.102(b)).</p>

FAR 52.219-29 , Notice of Set-Aside for, or Sole Source Awards to, Economically Disadvantaged Women-Owned Small Business Concerns. (EDWOSB)	No Fill-In	<p>FAR 19.1508(a) Insert the clause in solicitations and contracts for acquisitions that are set aside or awarded on a sole-source basis to, EDWOSB concerns under <u>19.1505(b)</u> or <u>19.1506(a)</u>. This includes multiple-award contracts when orders may be set aside for EDWOSB concerns as described in <u>8.405-5</u> and <u>16.505(b)(2)(i)(F)</u> or when orders may be issued directly to one EDWOSB contractor in accordance with <u>19.504(c)(1)(ii)</u>.</p> <p>Read FAR Class Deviation 21-01 https://www.dhs.gov/sites/default/files/publications/far_class_deviation_21-01_certification_of_wosbs_signed_by_cpo_3-17-2021.pdf</p>
FAR 52.219-30 , Notice of Set-Aside for, or Sole Source to, Women-Owned Small Business (WOSB) Concerns Eligible Under the Women-Owned Small Business Program.	No Fill-In	<p>FAR 19.1508(b) Insert the in solicitations and contracts for acquisitions that are set aside or awarded on a sole-source basis to WOSB concerns under <u>19.1505(c)</u> or <u>19.1506(b)</u>. This includes multiple-award contracts when orders may be set aside for WOSB concerns eligible under the WOSB Program as described in <u>8.405-5</u> and <u>16.505(b)(2)(i)(F)</u> or when orders may be issued directly to one WOSB contractor in accordance with <u>19.504(c)(1)(ii)</u>.</p> <p>Read FAR Class Deviation 21-01 https://www.dhs.gov/sites/default/files/publications/far_class_deviation_21-01_certification_of_wosbs_signed_by_cpo_3-17-2021.pdf</p>
FAR 52.219-32 , Orders Issued Directly Under Small Business Reserves	No Fill-In	<p>FAR 19.507(g)(2) / FAR 19.503 Insert the clause in solicitations and the resulting multiple-award contracts that have reserves.</p>
FAR 52.219-33 , Nonmanufacturer Rule.	No Fill-In	<p>FAR 19.507(h) Insert the clause in solicitations and contracts, including multiple-award contracts when orders may be set aside for small business concerns as described in <u>8.405-5</u> and <u>16.505(b)(2)(i)(F)</u>, and when orders may be issued directly to a small business concern as described in <u>19.504(c)(1)(ii)</u>, when— (i) the item being acquired has been assigned a manufacturing or supply NAICS code, and— (ii) (A) Any portion of the requirement is to be— (1) Set aside for small business and is expected to exceed the simplified acquisition threshold; or (2) Set aside or awarded on a sole-source basis in accordance with subparts <u>19.8</u>, <u>19.13</u>, <u>19.14</u>, or <u>19.15</u>, regardless of dollar value; or (B) <i>Using the HUBZone price evaluation preference</i>. However, if the prospective contractor waived the use of the price evaluation preference, or is an other than small business, do not insert the clause in the resultant contract.</p> <p>**The contracting officer shall not insert the clause at 52.219-33 when the Small Business Administration has waived the nonmanufacturer rule (see 19.505(c)(4)).</p>
FAR 52.222-3 , Convict Labor.	No Fill-In	<p>FAR 22.202 Insert the clause in solicitations/contracts above the Micro-Purchase Threshold, when the contract will be performed in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, or the U.S. Virgin Islands; unless— (a) The contract will be subject to <u>41 U.S.C. chapter 65</u>, (see <u>subpart 22.6</u>), which contains a separate prohibition against the employment of convict labor; (b) The supplies or services are to be purchased from Federal Prison Industries, Inc. (see <u>subpart 8.6</u>); or (c) The acquisition involves the purchase, from any State prison, of finished supplies that may be secured in the open market or from existing stocks, as distinguished from supplies requiring special fabrication.</p>

FAR 52.222-19 , Child Labor—Cooperation with Authorities and Remedies.	No Fill-In	FAR 22.1505(b) Per FAR Class Deviation 20-07, do not check 52.222-19 as applicable in Clause 52.212-5. Instead include the full-text of FAR 52.222-19 (Deviation 20-07) if applicable. See the section below labeled “Clause Deviations, Special Agency Clauses, Etc” for information regarding applicability of FAR 52.222-19 (Deviation 20-07). FAR Deviation 20-07: https://www.dhs.gov/publication/current-far-deviations
FAR 52.222-21 , Prohibition of Segregated Facilities.	No Fill-In	FAR 22.810(a)(1) Insert the clause in solicitations/contracts if FAR Clause 52.222-26 is included.
FAR 52.222-26 , Equal Opportunity. (Alt I)	No Fill-In for Basic Clause Alt I has a Fill-In	FAR 22.810(e) Insert the clause in solicitations/contracts (see <u>22.802</u>) unless the contract is exempt from all of the requirements of E.O. 11246 (see <u>22.807(a)</u>). Use Alternate I if the contract is exempt from one or more, but not all, of the requirements of E.O. 11246; Alternate I has a fill in. Note: N/A to work outside the United States.
FAR 52.222-35 , Equal Opportunity for Veterans (Alt I)	No Fill-In for Basic Clause Alt I has a Fill-In	FAR 22.1310(a)(1) Insert the clause in solicitations/contracts if the expected value is \$150,000 or more, except when— (i) Work is performed outside the United States by employees recruited outside the United States; or (ii) The Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, has waived, in accordance with <u>22.1305(a)</u> , or the head of the agency has waived, in accordance with <u>22.1305(b)</u> , all of the terms of the clause. Use Alternate I if the Director, Office of Federal Contract Compliance Programs of the U.S. Department of Labor, or the head of the agency waives one or more (but not all) of the terms of the clause; Alternate I has a fill in.
FAR 52.222-36 , Equal Opportunity for Workers with Disabilities. (Alt I)	No Fill-In for Basic Clause Alt I has a Fill-In	FAR 22.1408 Insert the clause in solicitations/contracts that exceed or are expected to exceed \$15,000, except when— (1) Both the performance of the work and the recruitment of workers will occur outside the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island; or (2) The Director of OFCCP or agency head has waived, in accordance with <u>22.1403(a)</u> or <u>22.1403(b)</u> all the terms of the clause. Use Alternate I if the Director of OFCCP or agency head waives one or more (but not all) of the terms of the clause in accordance with <u>22.1403(a)</u> or <u>22.1403(b)</u> ; Alternate I has a fill in.
FAR 52.222-37 , Employment Reports on Veterans.	No Fill-In	FAR 22.1310(b) Insert the clause in solicitations/contracts containing FAR Clause 52.222-35.
FAR 52.222-40 , Notification of Employee Rights Under the National Labor Relations Act.	No Fill-In	FAR 22.1605 Insert the clause in all solicitations/contracts (<i>at or above the SAT</i>), including acquisitions for commercial products/services and commercially available off-the-shelf items, <u>except</u> acquisitions— (1) Under the Simplified Acquisition Threshold. For indefinite-quantity contracts, include the clause only if the value of orders in any calendar year of the contract is expected to exceed the Simplified Acquisition Threshold; (2) For work performed exclusively outside the United States; or (3) Covered (in their entirety) by an exemption granted by the Secretary.

FAR 52.222-50 , Combating Trafficking in Persons. (Alt I)	No Fill-In for Basic Clause Alt I has a Fill-In	FAR 22.1705(a)(1) Insert the clause in all solicitations and contracts. Use Alternate I when the contract will be performed outside the US (as defined at <u>22.1702</u>) and the contracting officer has been notified of specific U.S. directives or notices regarding combating trafficking in persons (such as general orders or military listings of “off-limits” local establishments) that apply to contractor employees at the contract place of performance; Alternate I has a fill-in.
FAR 52.222-54 , Employment Eligibility Verification.	No Fill-In	FAR 22.1803 Insert the clause in all solicitations and contracts that exceed \$150,000, <u>except those that—</u> (a) Are only for work that will be performed outside the United States; (b) Are for a period of performance of less than 120 days; or (c) Are only for— (1) Commercially available off-the-shelf items; (2) Items that would be COTS items, but for minor modifications (as defined at paragraph (3)(ii) of the definition of “commercial products” at <u>2.101</u>); (3) Items that would be COTS items if they were not bulk cargo; or (4) Commercial services that are— (i) Part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications); (ii) Performed by the COTS provider; and (iii) Are normally provided for that COTS item.
FAR 52.223-9 , Estimate of Percentage of Recovered Material Content for EPA-Designated Items. (Alt I)	Fill-In	FAR 23.406(d) Except for the acquisition of commercially available off-the-shelf items, insert the clause in solicitations and contracts exceeding \$150,000 that are for, or specify the use of, EPA-designated items containing recovered materials. Use Alternate I if technical personnel advise that estimates can be verified.
FAR 52.223-11 , Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons	Fill-In	FAR 23.804(a)(1) Except for contracts for supplies that will be delivered outside the US and its outlying areas, or contracts for services that will be performed outside the US and its outlying areas, insert clause in solicitations and contracts for— (1) Refrigeration equipment (in product or service code (PSC) 4110); (2) Air conditioning equipment (PSC 4120); (3) Clean agent fire suppression systems/equipment (e.g., installed room flooding systems, portable fire extinguishers, aircraft/tactical vehicle fire/explosion suppression systems) (in PSC 4210); (4) Bulk refrigerants and fire suppressants (in PSC 6830); (5) Solvents, dusters, freezing compounds, mold release agents, and any other miscellaneous chemical specialty that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 6850); (6) Corrosion prevention compounds, foam sealants, aerosol mold release agents, and any other preservative or sealing compound that may contain ozone-depleting substances or high global warming potential hydrofluorocarbons (in PSC 8030); (7) Fluorocarbon lubricants (primarily aerosols) (in PSC 9150); and (8) Any other manufactured end products that may contain or be manufactured with ozone-depleting substances.

FAR 52.223-12 , Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners	No Fill-In	FAR 23.804(a)(2) Except for contracts for supplies that will be delivered outside the US and its outlying areas, or contracts for services that will be performed outside the US and its outlying areas, insert clause in solicitations and contracts that include the maintenance, service, repair, or disposal of— (1) Refrigeration equipment, such as refrigerators, chillers, or freezers; or (2) Air conditioners, including air conditioning systems in motor vehicles.
FAR 52.223-13 , Acquisition of EPEAT®-Registered Imaging Equipment. (Alt I)	No Fill-In	FAR 23.705(b)(1) Unless an exception applies in accordance with <u>23.704(a)</u> , insert the clause in all solicitations/contracts when imaging equipment (copiers, digital duplicators, facsimile machines, mailing machines, multifunction devices, printers, and scanners) will be— (i) Delivered; (ii) Acquired by the contractor for use in performing services at a Federally controlled facility; or (iii) Furnished by the contractor for use by the Government. Use Alternate I when there are sufficient EPEAT® silver- or gold-registered products available to meet agency needs.
FAR 52.223-14 , Acquisition of EPEAT®-Registered Televisions. (Alt I)	No Fill-In	FAR 23.705(c)(1) Unless an exception applies in accordance with <u>23.704(a)</u> , insert the clause in all solicitations/contracts when televisions will be— (i) Delivered; (ii) Acquired by the contractor for use in performing services at a Federally controlled facility; or (iii) Furnished by the contractor for use by the Government. Use Alternate I when there are sufficient EPEAT® silver- or gold-registered products available to meet agency needs.
FAR 52.223-15 , Energy Efficiency in Energy-Consuming Products.	No Fill-In	FAR 23.206 Unless exempt pursuant to <u>23.204</u> , insert the clause in solicitations/contracts when energy-consuming products listed in the ENERGY STAR® Program or FEMP will be— (a) Delivered; (b) Acquired by the contractor for use in performing services at a Federally-controlled facility; (c) Furnished by the contractor for use by the Government; or (d) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance.
FAR 52.223-16 , Acquisition of EPEAT®-Registered Personal Computer Products. (Alt I)	No Fill-In	FAR 23.705(d)(1) Unless an exception applies in accordance with <u>23.704(a)</u> , insert the clause in all solicitations/contracts when personal computer products will be— (i) Delivered; (ii) Acquired by the contractor for use in performing services at a Federally controlled facility; or (iii) Furnished by the contractor for use by the Government. Use Alternate I when there are sufficient EPEAT® silver- or gold-registered products available to meet agency needs.
FAR 52.223-18 , Encouraging Contractor Policies to Ban Text Messaging While Driving.	No Fill-In	FAR 23.1105 Insert the clause in all solicitations and contracts.

FAR 52.223-20, Aerosols	No Fill-In	FAR 23.804(a)(3) Except for contracts for supplies that will be delivered outside the US and its outlying areas, or contracts for services that will be performed outside the US and its outlying areas, insert clause in solicitations and contracts— (1) For products that may contain high global warming potential hydrofluorocarbons as a propellant, or as a solvent; or (2) That involve maintenance or repair of electronic or mechanical devices.
FAR 52.223-21, Foams	No Fill-In	FAR 23.804(a)(4) Except for contracts for supplies that will be delivered outside the US and its outlying areas, or contracts for services that will be performed outside the US and its outlying areas, insert clause in solicitations and contracts for— (1) Products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent, such as building foam insulation or appliance foam insulation; or (2) Construction of buildings or facilities.
FAR 52.224-3, Privacy Training (Alt I)	No Fill-In	FAR 24.302 / FAR Class Deviation 17-03 Per FAR Class Deviation 17-03, do not check 52.224-3 as applicable in Clause 52.212-5. Instead include the full-text of FAR 52.224-3 with its modified Alternate I (that is included in FAR Class Deviation 17-03) if applicable. See the section below labeled “Clause Deviations, Special Agency Clauses, Etc” for information regarding applicability of FAR 52.224-3 with its modified Alternate I. FAR Deviation 17-03: https://www.dhs.gov/publication/current-far-deviations
For information only regarding applicability of the below clauses.		Clauses 52.225-1, 52.225-3 and 52.225-5 apply to the acquisition of supplies or the acquisition of services involving the furnishing of supplies.
FAR 52.225-1, Buy American - Supplies.	No Fill-In	FAR 25.1101(a)(1) / FAR Class Deviation 22-04 Insert the clause in solicitations/contracts with a value exceeding the micro-purchase threshold but not exceeding \$25,000; and in solicitations/contracts with a value exceeding \$25,000, if clauses 52.225-3 and 52.225-5 do not apply , except if— (i) The solicitation is restricted to domestic end products in accordance with <u>subpart 6.3</u> ; (ii) The acquisition is for supplies for use within the United States and an exception to the Buy American statute applies (e.g., nonavailability , public interest or information technology that is a commercial product), other than individual nonavailability waiver determinations (see 25.103(b)(2)) ; or (iii) The acquisition is for supplies for use outside the United States. See Exceptions in FAR Class Deviations 22-04 and FAR 25.103. Use for Small Business set asides.
FAR 52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act. (Alt I, II, III)	No Fill-In	FAR 25.1101(b)(1)(i) / FAR Class Deviation 20-07 Per FAR Class Deviation 20-07, do not check 52.225-3 as applicable in Clause 52.212-5. Instead include the full-text of FAR 52.225-3 (Deviation 20-07) if applicable. See the section below labeled “Clause Deviations, Special Agency Clauses, Etc” for information regarding applicability of FAR 52.225-3 (Deviation 20-07). FAR Deviation 20-07: https://www.dhs.gov/publication/current-far-deviations

FAR 52.225-5, Trade Agreements	No Fill-In	FAR 25.1101(c)(1) Per FAR Class Deviation 20-07, do not check 52.225-5 as applicable in Clause 52.212-5. Instead include the full-text of FAR 52.225-5 (Deviation 20-07) if applicable. See the section below labeled “Clause Deviations, Special Agency Clauses, Etc” for information regarding applicability of FAR 52.225-5 (Deviation 20-07). FAR Deviation 20-07: https://www.dhs.gov/publication/current-far-deviations
FAR 52.225-13, Restrictions on Certain Foreign Purchases	No Fill-In	FAR 25.1103(a) Insert the clause in solicitations/contracts, unless an exception applies.
FAR 52.225-26, Contractors Performing Private Security Functions Outside the United States	No Fill-In	FAR 25.302-6 Insert the clause in solicitations/contracts for performance outside the US in an area of: (1) Combat operations, as designated by the Secretary of Defense; or (2) Other significant military operations, as designated by the Secretary of Defense only upon agreement of the Secretary of Defense and the Secretary of State. The clause <u>is not required</u> to be used for— (1) Contracts entered into by elements of the intelligence community in support of intelligence activities; or (2) Temporary arrangements entered into by non-DoD contractors for the performance of private security functions by individual indigenous personnel not affiliated with a local or expatriate security company.
FAR 52.226-4, Notice of Disaster or Emergency Area Set-Aside.	Fill-In	FAR 26.206(b) Insert the clause in solicitations/contracts involving local area set-asides.
FAR 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area.	No Fill-In	FAR 26.206(c) Insert the clause in all solicitations/contracts that involve local area set-asides.
FAR 52.229-12, Tax on Certain Foreign Procurements.	No Fill-In	FAR 29.402-3(b) Insert the clause in— (1) Solicitations that contain the provision at 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation; and (2) Resultant contracts in which the contractor has indicated that it was a foreign person in solicitation provision 52.229-11, Tax on Certain Foreign Procurements—Notice and Representation.
FAR 52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services.	No Fill-In	See FAR 32.206(b)(2) Note: If contract financing will be included in the solicitation, see FAR 32.2 for more information.
FAR 52.232-30, Installment Payments for Commercial Products and Commercial Services.	No Fill-In	See FAR 32.206(g) Note: If installment payments are either customary or are authorized under agency procedures, see FAR 32.2 for more information.
FAR 52.232-33, Payment by Electronic Funds Transfer-System for Award Management.	No Fill-In	FAR 32.1110(a)(1) Insert the clause in solicitations/contracts that <u>include</u> the provision at <u>52.204-7</u> , or an agency clause that requires a contractor to be registered in the System for Award Management (SAM) and maintain registration until final payment, unless— (i) Payment will be made through a third party arrangement (see <u>13.301</u> and paragraph (d) of 32.1110); or (ii) An exception listed in <u>32.1103(a)</u> through (i) applies. Note: Required for most solicitations/contracts.

FAR 52.232-34 , Payment by Electronic Funds Transfer-Other than System for Award Management.	Fill-In	<p>FAR 32.1110(a)(2) Insert the clause in solicitations/contracts that require EFT as the method for payment but <u>do not include</u> the provision at <u>52.204-7</u>, or a similar agency clause that requires the contractor to be registered in SAM.</p> <p>Fill-In: If permitted by agency procedures, the contracting officer may insert in paragraph (b)(1) of 52.232-34, a particular time after award, such as a fixed number of days, or event such as the submission of the first request for payment. If no agency procedures are prescribed, the time period inserted in paragraph (b)(1) of 52.232-34 shall be "no later than 15 days prior to submission of the first request for payment."</p> <p>Note: N/A unless an exception at FAR 32.1103 applies.</p>
FAR 52.232-36 , Payment by Third Party.	No Fill-In	<p>FAR 32.1110(d) Insert the clause in solicitations/contracts if payment under a written contract will be made by a charge to a Government account with a third party such as a Governmentwide commercial purchase card. When the clause at 52.232-36 is included in a solicitation or contract, the contracting officer shall also insert clause 52.232-33 <u>or</u> 52.232-34, as appropriate</p>
FAR 52.239-1 , Privacy or Security Safeguards.	No Fill-In	<p>FAR 39.106 Insert the clause in solicitations/contracts for information technology which require security of information technology, and/or are for the design, development, or operation of a system of records using commercial information technology services or support services.</p>
FAR 52.242-5 , Payments to Small Business Subcontractors	No Fill-In	<p>FAR 42.1504 Insert the clause in all solicitations/contracts that contain Clause 52.219-9, Small Business Subcontracting Plan.</p> <p>Note: N/A to any set-asides</p>
FAR 52.247-64 , Preference for Privately Owned U.S.-Flag Commercial Vessels. (Alt I, II)	No Fill-In	<p>FAR 47.507(a) Insert the clause in solicitations/contracts that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954. (For application of the Cargo Preference Act of 1954, see <u>47.502(a)(3)</u>, <u>47.503(a)</u>, and <u>47.504</u>.) Use Alternate I if an applicable statute requires, or if it has been determined under agency procedures, that the supplies to be furnished under the contracts must be transported exclusively in privately owned U.S.-flag commercial vessels (see <u>47.502(a)(1)</u> and <u>47.503(b)</u>). Alternate II - Except for contracts or agreements for ocean transportation services or construction contracts, use Alternate II if any of the supplies to be transported are commercial products that are shipped in direct support of U.S. military— (i) Contingency operations; (ii) Exercises; or (iii) Forces deployed in connection with United Nations or North Atlantic Treaty Organization humanitarian or peacekeeping operations.</p>
For information only regarding applicability of the below clauses.		<p>Service Contract Labor Standards (FAR 22.10) (formerly known as the Service Contract Act of 1965): FAR 22.10 applies to all Government contracts when the principal purpose is to furnish services in the United States through use of service employees, <i>except as exempted in FAR 22.1003-3 and 22.1003-4</i>. Does not apply to individual contract requirements for services in contracts not having as their principal purpose the furnishing of services. (FAR 22.1003-1)</p> <p>“Service contract” (FAR 22.001) means any Government contract, or subcontract thereunder, the principal purpose of which is to furnish services in the United States through the use of service employees, except as exempted by 41 U.S.C. chapter 67, Service Contract Labor Standards; see <u>22.1003-3</u> and <u>22.1003-4</u>). See <u>22.1003-5</u> and 29 CFR 4.130 for a partial list of services covered by the Service Contract Labor Standards statute.</p> <p>“Service employee” (FAR 22.001) means any person engaged in the performance of a service contract other than any person employed in a bona fide executive, administrative, or</p>

		<p>professional capacity, as those terms are defined in 29 CFR part 541. The term “service employee” includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.</p> <p>*N/A to persons employed in a bona fide executive, administrative, or professional capacity.</p> <p>“United States” (FAR 22.1001) means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, and the outer Continental Shelf as defined in the Outer Continental Shelf Lands Act (43 U.S.C.1331, <i>et seq.</i>), but does not include any other place subject to U.S. jurisdiction or any U.S. base or possession within a foreign country (29 CFR 4.112).</p> <p>*N/A for services performed outside the United States.</p> <p>Exemptions to FAR 22.10 - see FAR 22.1003-3 and 22.1003-4.</p> <p>Examples of covered contracts - see FAR 22.1003-5.</p>
FAR 52.222-41 , Service Contract Labor Standards	No Fill-In	<p>FAR 22.1006(a)</p> <p>Insert the clause in solicitations/contracts if the contract is subject to the Service Contract Labor Standards statute and is—</p> <p>(i) Over \$2,500; or</p> <p>(ii) For an indefinite dollar amount and the contracting officer does not know in advance that the contract amount will be \$2,500 or less.</p> <p>*DO NOT insert the clause in the solicitation/contract if paragraph (k) of Provision 52.212-3 is checked as applicable.</p>
FAR 52.222-42 Statement of Equivalent Rates for Federal Hires.	Fill-In	<p>FAR 22.1006(b)</p> <p>Insert the clause in solicitations/contracts if the contract amount is expected to be over \$2,500 and the Service Contract Labor Standards statute is applicable. (See <u>22.1016</u> for fill in information.)</p>
FAR 52.222-43 , Fair Labor Standards Act and Service Contract Labor Standards —Price Adjustment (Multiple Year and Option Contracts).	No Fill-In	<p>FAR 22.1006(c)(1)</p> <p>Insert the clause or another clause which accomplishes the same purpose, in solicitations/contracts if the contract is expected to be a <u>fixed-price, time-and-materials, or labor-hour service contract</u> containing the <u>clause at 52.222-41, Service Contract Labor Standards</u>, and is a <u>multiple year contract</u> or is a <u>contract with options to renew</u> which <u>exceeds the Simplified Acquisition Threshold</u>.</p> <p>The clause may be used in contracts that do not exceed the simplified acquisition threshold. The clause applies to both contracts subject to area prevailing wage determinations and contracts subject to the incumbent contractor’s collective bargaining agreement in effect during this contract’s preceding contract period (see 22.1002-2 and 22.1002-3). Contracting officers shall ensure that contract prices or contract unit price labor rates are adjusted only to the extent that a contractor’s increases or decreases in applicable wages and fringe benefits are made to comply with the requirements set forth in the clauses at 52.222-43 (subparagraphs(d)(1), (2) and (3)), or 52.222-44 (subparagraphs(b)(1) and (2)). (For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The contractor actually paid \$4.10. The new wage determination increases the minimum rate to \$4.50. The contractor increases the rate actually paid to \$4.75 per hour. The allowable price adjustment is \$.40 per hour.)</p>
FAR 52.222-44 , Fair Labor Standards Act and Service Contract Labor Standards —Price Adjustment.	No Fill-In	<p>FAR 22.1006(c)(2)</p> <p>Insert the clause in solicitations/contracts if the contract is expected to be a <u>fixed-price, time-and-materials, or labor-hour service contract</u> containing the <u>clause at 52.222-41, Service Contract Labor Standards</u>, <u>exceeds the Simplified Acquisition Threshold</u>, and is not a <u>multiple year contract</u> or is <u>not a contract with options to renew</u>.</p> <p>The clause may be used in contracts that do not exceed the simplified acquisition threshold. The clause applies to both contracts subject to area prevailing wage determinations and contracts subject to contractor collective bargaining agreements (see 22.1002-2 and 22.1002-3).</p>

FAR 52.222-51 , Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.	No Fill-In	FAR 22.1006(e)(2) Insert the clause— (i) In solicitations when paragraph (k)(1) of Provision 52.212-3 is checked as applicable; and (ii) In resulting contracts in which the contracting officer has determined, in accordance with <u>22.1003-4(c)(3)</u> , that the Service Contract Labor Standards statute does not apply.
FAR 52.222-53 , Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.	No Fill-In	FAR 22.1006(e)(4) Insert the clause— (i) In solicitations when paragraph (k)(2) of Provision 52.212-3 is checked as applicable; and (ii) In resulting contracts in which the contracting officer has determined, in accordance with <u>22.1003-4(d)(3)</u> , that the Service Contract Labor Standards statute does not apply.
FAR 52.222-55 , Minimum for Contractor Workers Under Executive Order 14026	No Fill-In	FAR 22.1906 Insert the clause in solicitations/contracts that include clause <u>52.222-6</u> , Construction Wage Rate Requirements, or clause <u>52.222-41</u> , Service Contract Labor Standards, where work is to be performed, in whole or in part, in the United States (the 50 States and the District of Columbia).
FAR 52.222-62 , Paid Sick Leave Under Executive Order 13706	No Fill-In	FAR 22.2110 Insert the clause in solicitations/contracts that include clause <u>52.222-6</u> , Construction Wage Rate Requirements, or clause <u>52.222-41</u> , Service Contract Labor Standards, where work is to be performed, in whole or in part, in the United States (the 50 States and the District of Columbia).
FAR 52.226-6 , Promoting Excess Food Donation to Nonprofit Organizations	No Fill-In	FAR 26.404 Insert the clause in solicitations/contracts greater than \$30,000 for the provision, service, or sale of food in the United States.

**Below are other required (if applicable) clauses for the acquisition of Commercial Products/Services.
(See FAR 12.301(d))**

C/P	Clause/Provision	FT/IBR Fill-In	Prescription / Applicability
C	FAR 52.204-13 , System for Award Management Maintenance	IBR No Fill-In	FAR 12.301(d)(2) and FAR 4.1105(b) Insert the clause in solicitations that contain provision 52.204-7 (System for Award Management) and in resulting contracts. (This clause will be applicable to most solicitations/contracts.)
C	FAR 52.204-18 , Commercial and Government Entity Code Maintenance	IBR No Fill-In	FAR 12.301(d)(4) and FAR 4.1804(c) Insert the clause in all solicitations/contracts when the solicitation contains provision 52.204-16, Commercial and Government Entity Code Reporting. (This clause will be applicable to most solicitations/contracts.)
C	FAR 52.204-21 , Basic Safeguarding of Covered Contractor Information Systems	FT	FAR 12.301(d)(5) and FAR 4.1903 Insert the clause in solicitations/contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.
C	FAR 52.225-19 , Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission outside the United States	IBR Fill-In	FAR 12.301(d)(11) and FAR 25.301-4 Insert the clause in solicitations and contracts, other than personal service contracts with individuals, that will require contractor personnel to perform outside the U.S. – (a) In a designated operational area during - Contingency operations; Humanitarian or peacekeeping operations; or Other military operations or military exercises, when designated by the combatant commander; <u>or</u> (b) When supporting a diplomatic or consular mission - That has been designated by the Department of State as a danger pay post (see https://aoprals.state.gov/); or that the contracting officer determines is a post at which application of the clause FAR 52.225-19 is appropriate.
C	FAR 52.229-13 , Taxes—Foreign Contracts in Afghanistan	IBR No Fill-In	FAR 12.301(d)(13) and FAR 29.402-4(a) Insert the clause in solicitations and contracts with performance in Afghanistan awarded by or on behalf of U.S. Forces, unless the clause at 52.229-14 is used.
C	FAR 52.229-14 , Taxes—Foreign Contracts in Afghanistan (North Atlantic Treaty Organization Status of Forces Agreement)	IBR No Fill-In	FAR 12.301(d)(14) and FAR 29.402-4(b) Insert the clause, instead of the clause at 52.229-13, Taxes—Foreign Contracts in Afghanistan, in solicitations and contracts with performance in Afghanistan awarded on behalf of or in support of the North Atlantic Treaty Organization (NATO), which are governed by the NATO Status of Forces Agreement (SOFA).
C	FAR 52.232-40 , Providing Accelerated Payments to Small Business Subcontractors	IBR No Fill-In	FAR 12.301(d)(15) and FAR 32.009-2 Insert the clause in all solicitation and contracts.

Below are some “discretionary” (if applicable) clauses that may be added to a Commercial Product/Service Solicitation/Contract. See FAR 12.301(e)(1)-(4) The contracting officer may include the following clauses (if applicable) in solicitations/contracts by addendum to FAR Clause 52.212-4 when their use is consistent with the limitations contained in [12.302](#).

C/P	Clause/Provision	FT/IBR Fill-In	Prescription / Applicability
C	FAR 52.204-1 , Approval of Contract	FT Fill -In	FAR 4.103 & HSAR 3004.103 Per HSAR 3004.103, insert the clause in each solicitation when approval to award the resulting contract is required above the contracting officer level.
C	FAR 52.204-2 , Security Requirements	IBR No Fill-In	FAR 4.404(a) Insert the clause in solicitations/contracts when the contract may require access to classified information (Confidential, Secret, or Top Secret), unless the conditions specified in FAR 4.404 (d) apply.
C	FAR 52.204-9 , Personal Identity Verification of Contractor Personnel.	IBR No Fill-In	FAR 4.1303 Insert the clause in solicitations/contracts when contract performance requires contractors to have routine physical access to a Federally-controlled facility and/or routine access to a Federally-controlled information system. The clause shall not be used when contractors require only intermittent access to Federally-controlled facilities.
C	FAR 52.216-18 , Ordering	FT Fill-In	FAR 12.301(e)(1) & FAR 16.506(a) Insert the clause in solicitations/contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated.
C	FAR 52.216-19 , Order Limitations	FT Fill-In	FAR 12.301(e)(1) & FAR 16.506(b) Insert a clause substantially the same as the clause at 52.216-19 in solicitations/contracts when a definite-quantity contract, a requirements contract, or an indefinite-quantity contract is contemplated.
C	FAR 52.216-20 , Definite Quantity	IBR Fill-In	FAR 12.301(e)(1) & FAR 16.506(c) Insert the clause in solicitations/contracts when a definite-quantity contract is contemplated.
C	FAR 52.216-21 , Requirements	FT Fill-In	FAR 12.301(e)(1) & FAR 16.506(d) Insert the clause in solicitations/contracts when a requirements contract is contemplated. *If the contract is for nonpersonal services and related supplies and covers estimated requirements that exceed a specific Government activity’s internal capability to produce or perform, use the clause with its Alternate I . * If the contract includes subsistence for both Government use and resale in the same Schedule, and similar products may be acquired on a brand-name basis, use the clause with its Alternate II (but see paragraph 16.506 (d)(5)). * If the contract involves a partial small business set-aside, use the clause with its Alternate III (but see paragraph 16.506 (d)(5)). * If the contract-(i) Includes subsistence for Government use and resale in the same schedule and similar products may be acquired on a brand-name basis; and (ii) Involves a partial small business set-aside, use the clause with its Alternate IV .
C	FAR 52.216-22 , Indefinite Quantity	FT	FAR 12.301(e)(1) & FAR 16.506(e) Insert the clause in solicitations and contracts when an indefinite-quantity contract is contemplated.

C	FAR 52.217-6 , Option for Increased Quantity	IBR Fill-In	FAR 12.301(e)(2) & FAR 17.208(d) Insert a clause substantially the same as clause 52.217-6 in solicitations/contracts, <u>other than those for services</u> , when the inclusion of an option is appropriate (see 17.200 and 17.202) and the option quantity is expressed as a percentage of the basic contract quantity or as an additional quantity of a specific line item.
C	FAR 52.217-7 , Option for Increased Quantity - Separately Priced Line Item	IBR Fill-In	FAR 12.301(e)(2) & FAR 17.208(e) Insert a clause substantially the same as clause 52.217-7 in solicitations/contracts, <u>other than those for services</u> , when the inclusion of an option is appropriate (see 17.200 and 17.202) and the option quantity is identified as a separately priced line item having the same nomenclature as a corresponding basic contract line item
C	FAR 52.217-8 , Option to Extend Services	IBR Fill-In	FAR 12.301(e)(2) & FAR 17.208(f) / HSAM 30017.2 Insert a clause substantially the same as clause 52.217-8 in solicitations/contracts for <u>services</u> when the inclusion of an option is appropriate. (See 17.200, 17.202, and 37.111 / CGAP 3017.204(e)(3)(C)) Important: Reference the FAR Clause 52.217-8 Job Aid and HSAM 3017-2.
C	FAR 52.217-9 , Option to Extend the Term of the Contract	FT Fill-In*	FAR 12.301(e)(2) & FAR 17.208(g) / HSAM 3017.2 Insert a clause substantially the same as clause 52.217-9 in solicitations/contracts when the inclusion of an option is appropriate (see 17.200 and 17.202) and it is necessary to include in the contract any or all of the following: (1) A requirement that the Government must give the contractor a preliminary written notice of its intent to extend the contract. (2) A statement that an extension of the contract includes an extension of the option. (3) A specified limitation on the total duration of the contract. *Note: Per HSAM 3017.204(e)(1)(ii), <u>do not</u> include the additional six months of services available under FAR clause 52.217-8 when specifying the total contract duration in paragraph (c) of FAR clause 52.217-9.
C	FAR 52.222-49 , Service Contract Labor Standards—Place of Performance Unknown	IBR Fill-In	FAR 22.1006(f) - Insert the clause if using the procedures prescribed in 22.1009-4. FAR 22.1009-4 - If the contracting officer believes that there may be offerors interested in performing in unidentified places or areas, use the procedures listed in FAR 22.1009-4 and insert FAR Clause 52.222-49 in the solicitation and resulting contract.
C	FAR 52.223-2 , Affirmative Procurement of Biobased Products Under Service and Construction Contracts	IBR No Fill-In	FAR 12.301(e)(3) & FAR 23.406(b) Insert the clause in service or construction solicitations/contracts, unless the contract <u>will not</u> involve the use of USDA-designated items at http://www.biopreferred.gov or 7 CFR part 3201.
C	FAR 52.223-17 , Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.	IBR No Fill-In	FAR 12.301(e)(3) & FAR 23.406(e) Insert the clause in service or construction solicitations/contracts unless the contract will not involve the use of EPA-designated items.
C	FAR 52.227-19 , Commercial Computer Software License	IBR Fill-In	See FAR 12.212, 27.405-3 and 27.409(g) before using clause In accordance with <u>27.405-3</u> , when contracting (other than from GSA's Multiple Award Schedule contracts) for the acquisition of commercial computer software, the contracting officer may insert the clause at <u>52.227-19</u> , in the solicitation and contract. In any event, the contracting officer shall assure that the contract contains terms to obtain sufficient rights for the Government to fulfill the need for which the software is being acquired and is otherwise consistent with <u>27.405-3</u> .

C	FAR 52.228-5, Insurance—Work on a Government Installation	IBR No Fill-In	<p>FAR 28.310(a)</p> <p>Insert the clause in solicitations/contracts if a fixed-price contract is contemplated, the contract amount is expected to exceed the Simplified Acquisition Threshold, and the contract will require work on a Government installation, <u>unless</u>—</p> <p>(1) Only a small amount of work is required on the Government installation (e.g., a few brief visits per month); or</p> <p>(2) All work on the Government installation will be performed outside the United States and its outlying areas.</p>
C	FAR 52.232-18, Availability of Funds	IBR No Fill-In	<p>FAR 32.706-1(a) / 32.703-2(a) / HSAM 3032.702-71</p> <p>32.706-1(a) - Insert the clause in solicitations/contracts if the contract will be chargeable to funds of the new fiscal year and the contract action will be initiated before the funds are available.</p> <p>32.703-2(a) - Fiscal Year Contract. The contracting officer may initiate a contract action properly chargeable to funds of the new fiscal year before these funds are available, provided that the contract includes the clause at 52.232-18, Availability of Funds (see 32.706-1(a)). This authority may be used only for operation and maintenance and continuing services (e.g., rentals, utilities, and supply items not financed by stock funds)—</p> <p>(1) Necessary for normal operations; and</p> <p>(2) For which Congress previously had consistently appropriated funds, unless specific statutory authority exists permitting applicability to other requirements.</p>
C	FAR 52.232-19, Availability of Funds for the Next Fiscal Year	FT Fill-In	<p>FAR 32.706-1(b) / 32.703-2(b) / HSAM 3032.702-71</p> <p>32.706-1(b) - Insert the clause in solicitations/contracts if a one-year indefinite-quantity or requirements contract for services is contemplated and the contract—</p> <p>(1) Is funded by annual appropriations; and</p> <p>(2) Is to extend beyond the initial fiscal year (see 32.703-2(b)).</p> <p>32.703-2(b) - Indefinite-quantity or requirements contracts. A one-year indefinite-quantity or requirements contract for services that is funded by annual appropriations may extend beyond the fiscal year in which it begins; provided, that-</p> <p>(1) Any specified minimum quantities are certain to be ordered in the initial fiscal year (see 37.106) and</p> <p>(2) The contract includes the clause at 52.232-19, Availability of Funds for the Next Fiscal Year (see 32.706-1(b)).</p>
C	FAR 52.245-1, Government Property.	IBR No Fill-In	<p>FAR 45.107(a)(1)(iii)</p> <p>Except as provided in FAR 45.107(d), insert the clause in contracts or modifications awarded under FAR <u>Part 12</u> procedures where Government property that exceeds the SAT, is furnished or where the contractor is directed to acquire property for use under the contract that is titled in the Government.</p> <p>* Use Alternate I in contracts other than those identified in FAR 45.104(a) (Cost Reimbursement, T&M, LH, & Fixed-Price awarded on the basis of submission of certified cost & pricing data.)</p> <p>* Use Alternate II when a contract for the conduct of basic or applied research at nonprofit institutions of higher education or at nonprofit organizations whose primary purpose is the conduct of scientific research (see 35.014) is contemplated.</p>

C	FAR 52.245-9, Use and Charges	IBR No Fill-In	FAR 45.107(c) Insert the clause in solicitations/contracts when clause <u>52.245-1</u> , Government Property, is included in the solicitation/contract.
C	FAR 52.247-29, F.o.b. Origin.	IBR No Fill-In	FAR 47.303-1(c) Insert the clause in solicitations/contracts when the delivery term is f.o.b. origin.
C	FAR 52.247-30, F.o.b. Origin, Contractor's Facility.	IBR No Fill-In	FAR 47.303-2 (c) Insert the clause in solicitations/contracts when the delivery term is f.o.b. origin, contractor's facility.
C	FAR 52.247-31, F.o.b. Origin, Freight Allowed.	IBR No Fill-In	FAR 47.303-3 (c) Insert the clause in solicitations/contracts when the delivery term is f.o.b. origin, freight allowed.
C	FAR 52.247-34, F.o.b. Destination.	IBR No Fill-In	FAR 47.303-6 (c) Insert the clause in solicitations/contracts when the delivery term is f.o.b. destination.
C	FAR 52.252-2, Clauses Incorporated by Reference.	FT Fill-In	FAR 52.107(b) Insert the clause in solicitations/contracts in order to incorporate clauses by reference.
C	FAR 52.252-6, Authorized Deviations in Clauses.	FT Fill-In	FAR 52.107(f) Insert the clause in solicitations and contracts that include any FAR or supplemental clause with an authorized deviation. Whenever any FAR or supplemental clause is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date assigned to the clause when it is used without deviation, include regulation name for any supplemental clause, except that the contracting officer shall insert "(DEVIATION)" after the date of the clause.

Below are agency unique (if applicable) clauses that may be added to a Commercial Product/Service Solicitation/Contract. (See FAR 12.301(f))

C/P	Clause/Provision	FT/IBR Fill-In	Prescription / Applicability
C	HSAR 3052.209-70 , Prohibition on Contracts with Corporate Expatriates	N/A	HSAR Class Deviation 16-02 (HSAR 3009.108-7005) https://www.dhs.gov/publication/currenthsardeviations HSAR Class Deviation 16-02 suspends use of HSAR clause 3052.209-70; do not include the clause in solicitations and contracts. (Note: See Section 3 regarding 52.209-2 and 52.209-10)
C	HSAR 3052.209-71 Reserve Officer Training Corps and Military Recruiting on Campus	IBR No Fill-in	HSAR Class Deviation 21-02 (HSAR 3009.470-4) https://www.dhs.gov/publication/currenthsardeviations HSAR Class Deviation 21-02 suspends use of HSAR Clause 3052.209-71; do not include the clause in solicitations and contracts. Contracting Officers shall follow the coverage in the FAR when implementing 10 U.S.C. § 983.
C	HSAR 3052.209-76 , Prohibition on Federal Protective Service guard services contracts with business concerns owned, controlled, or operated by an individual convicted of a felony	FT	HSAR 3009.171-9 Insert clause in all solicitation/contracts for federal protective service (FPS) guard services.
C	HSAR 3052.212-70 , Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items.	FT	HSAR 3012.301(f) Insert clause 3052.212-70 in any solicitation or contract for commercial items when any of the provisions or clauses listed therein applies and where incorporation by reference of each selected provision or clause is, to the maximum extent practicable, consistent with customary commercial practice. If necessary, tailor this clause. (See next page for provisions/clauses that are included in HSAR 3052.212-70)
C	HSAR 3052.217-90 Delivery and Shifting of Vessel (USCG).	IBR No Fill-In	HSAR 3017.9000(a) and (b) USCG only / Vessels Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.222-90 Local hire (USCG).	IBR No Fill-In	HSAR 3022.9000 and 3022.9001 USCG only Insert the clause in all solicitations and contracts as stated in HSAR 3022.9000. HSAR 3022.9000: As required by 14 U.S.C. 666, the U.S. Coast Guard shall include a provision for local hire in each contract for construction or services to be performed in whole or in part in a State that has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor.
C	HSAR 3052.223-70 Removal or disposal of hazardous substances - applicable licenses and permits.	FT Fill-in	HSAR 3023.303 Insert clause in solicitations /contracts involving removal or disposal of hazardous waste material.
C	HSAR 3052.223-90 Accident and fire reporting (USCG).	IBR No Fill-In	HSAR 3023.9000(a) Insert clause in solicitations /contracts where all or part of a contract will be performed on Government-owned or leased property.
C	HSAR 3052.225-70 Requirement for Use of Certain Domestic Commodities	FT No Fill-in	HSAR 3025.7003 / HSAR Class Deviation 13-01, Amendment 1 Unless an exception under (HSAR) 48 CFR 3025.7002-2(a), (b), (e) or (f) applies, insert the clause in solicitations/contracts, exercising of an option, contract modifications that add new items (or which make a cardinal change) and contracts with a value exceeding the simplified acquisition threshold when procuring any item covered under (HSAR) 48 CFR 3025.7002-1(a) or (b).

C	HSAM 3032.702(j), Incremental Funding Requirements	FT	<p>HSAM 3032.702</p> <p>Include the language at HSAM 3032.702(j) in the terms and conditions of each contract or order that is incrementally funded.</p> <p>(e) Time-and-material and labor-hour contracts are not fixed-price contracts (FAR 16.600) and are generally severable. A fixed-price, time-and-material or labor-hour contract or order for severable services may be incrementally funded only if, during a Continuing Resolution (CR) or a short-term apportionment immediately following a CR, the Department or Component is not allocated sufficient funds to fully fund a contract action that is otherwise authorized to be awarded and meets the following:</p> <p>(1) Approved one level above the contracting officer;</p> <p>(2) The funds to be obligated are not restricted by a statutory prohibition against incremental funding;</p> <p>(3) The contract or order is incrementally funded using funds available, unexpired, as of the date the funds are obligated;</p> <p>(4) The contract or order includes the information below to ensure the contractor accepts the limitations of the Government's liabilities under the incrementally funded contract or order; and</p> <p>(5) The responsible financial officer agrees in writing to provide full funding promptly upon receipt of an apportionment under the Appropriations Act that replaces the CR.</p> <p>(f) Non-severable services shall not be incrementally funded. Supplies shall not be incrementally funded.</p> <p>(g) Incremental funding for a fixed-price, time-and-material or labor-hour contract or order may be limited to individual line items or applied to the whole contract or order.</p> <p>(h) Funds added to an incrementally funded contract or order shall be from the same fiscal year as the original funding, unless specific statutory authority allows use of funds from a different fiscal year.</p> <p>(i) The contracting officer shall ensure that of the available funds, a sufficient amount is reserved in the amount obligated on the contract or order to cover the total amount payable to the contractor in the event of termination for the convenience of the Government.</p>
C	CGAP Subchapter 3004.1301-90, Trusted Associate Sponsorship System (TASS)	FT	<p>CGAP Subchapter 3004.1301-90</p> <p>When a contractor or subcontractor employee is required to access a Coast Guard, Department of Defense, or other federally-controlled computer information system, or needs public key infrastructure (PKI) authentication to perform their contractual duties, add the following content in the requirements document. Note that this content is also included in requirements document templates on the ARM.</p> <p>Note: Required if contractor will require CAC cards.</p>

The clauses/provisions below must be checked, if applicable, in HSAR Clause 3052.212-70. Some of the below clauses/provisions may require fill-in.

C/P	Clause/Provision	Fill-In	Prescription / Applicability
P	HSAR 3052.216-70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.	No Fill-In	HSAR 3016.203-470 Insert provision in solicitations containing an economic price adjustment clause.
P	HSAR 3052.219-72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program	No Fill-In	HSAR 3019.708-70(b) Insert provision in all solicitations containing HSAR 3052.219-71 and FAR 52.219-9 <i>and when the solicitation contains a source selection factor or subfactor regarding participation in the DHS Mentor Protégé Program.</i> Note: N/A to 8(a) Set-Asides Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.
P	HSAR 3052.247-70 F.o.B. Origin Information.	No Fill-In	HSAR 3047.305-70(a) Insert the provision in solicitations in accordance with FAR <u>47.305-3(b)</u> . Alternate I – If delivery is “FOB origin, contractor’s facility” and the designated facility is not covered by the line-haul transportation rate. Alternate II - When delivery is “f.o.b. origin, freight allowed”.
P	HSAR 3052.247-71 F.o.B. Origin Only.	No Fill-In	HSAR 3047.305-70(b) Insert the provision in solicitations in accordance with FAR <u>47.305-3(e)</u> . Insert if FOB Origin only offers are desired.
P	HSAR 3052.247-72 F.o.B. Destination Only.	No Fill-In	HSAR 3047.305-70(c) Insert the provision in solicitations in accordance with FAR <u>47.305-4(b)</u> . Insert if FOB Destination only offers are desired.
C	HSAR 3052.203-70 Instructions for Contractor Disclosure of Violations.	No Fill-In	HSAR 3003.1004(a) Insert the clause in solicitations/contracts containing the clause at FAR <u>52.203-13</u> .
C	HSAR 3052.204-70 , Security Requirements for Unclassified Information Technology Resources	Fill-In	HSAR 3004.470-3(a) / HSAR Class Deviation 15-01 https://www.dhs.gov/publication/currenthsardeviations Insert the clause in solicitations/contracts that require submission of an IT Security Plan. Insert the clause in the solicitation/contract where contractor IT systems are used to input, store, process, output, and/or transmit sensitive information. Per HSAR Class Deviation 15-01, <u>do not</u> insert the clause in a solicitation/contract if DHS special clauses “Safeguarding of Sensitive Information” and “Information Technology Security and Privacy Training” are inserted into the solicitation/contract. * Use the clause listed in the HSAR.
C	HSAR 3052.204-71 , Contractor Employee Access.	No Fill-In	HSAR 3004.470-3(b) / HSAR Class Deviation 15-01 https://www.dhs.gov/publication/currenthsardeviations Insert clause in solicitations and contracts when: (1) contractor employees require recurring access to Government facilities; (2) contractor employees require access to sensitive information; or (3) contractor IT systems are used to input, store, process, output, and/or transmit sensitive information. Alternate I - Insert the basic clause with its Alternate I for acquisitions requiring contractor access to IT resources. Alternate II - For acquisitions in which the contractor will not have access to IT resources, but the Department has determined contractor employee access to sensitive information or Government facilities must

			<p>be limited to U.S. citizens and lawful permanent residents, insert the clause with its Alternate II.</p> <p>Notes: Neither the basic clause nor its alternates shall be used unless contractor employees will require recurring access to Government facilities or access to sensitive information. Neither the basic clause nor its alternates should ordinarily be used in contracts with educational institutions.</p> <p>* Use the clause listed in the HSAR.</p>
C	HSAR 3052.205-70 Advertisement, Publicizing Awards, and Releases	No Fill-In	<p>HSAR 3005.470-2(a)</p> <p>Insert the clause in all solicitations/contracts that exceed the SAT.</p>
C	HSAR 3052.209-72 Organizational Conflicts of Interest	Fill-In	<p>HSAR 3009.507-1</p> <p>Insert clause in solicitations/contracts where a potential organizational conflict of interest exists in the <u>present acquisition</u> and mitigation may be possible. The contracting officer shall ensure the conditions enumerated in (FAR) 48 CFR Subpart 9.5 warrant inclusion. The contracting officer shall include the information required by (FAR) 48 CFR 9.507-1 and (HSAR) 3052.209-72(a).</p> <p>*Note - When this clause applies, insert the following notice on the solicitation's cover page or instructions to offerors: <u>Organizational Conflict of Interest Notice (present acquisitions)</u> Offerors should be aware that they may be deemed ineligible to participate in this acquisition by reason of an organizational conflict of interest (OCI) (see FAR 9.5, Organizational and Consultant Conflicts of Interest). Offerors should carefully examine and comply with HSAR 3052.209-72, Organizational Conflict of Interest, found in this solicitation. An offeror's eligibility or ineligibility to participate in the current acquisition is determined by the contracting officer.</p>
C	HSAR 3052.209-73 Limitation on Future Contracting.	Fill-In	<p>HSAR 3009.507-2</p> <p>Insert clause in solicitations/contracts when a potential organizational conflict of interest exists for a <u>future acquisition</u> and mitigation is not feasible.</p> <p>*Note - When this clause applies, insert the following notice on the solicitation's cover page or instructions to offerors: <u>Organizational Conflict of Interest Notice (future acquisitions)</u> Offerors should be aware that the type of work required by this acquisition may give rise to an organizational conflict of interest (OCI) that may restrict the offeror's ability to compete for follow-on work/future acquisitions. These types of OCI do not generally lend themselves to successful mitigation (see FAR 9.5, Organizational and Consultant Conflicts of Interest). Offerors should carefully examine and comply with HSAR 3052.209-73, Limitation of Future Contracting, found in this solicitation. An offeror's eligibility or ineligibility to participate in a future acquisition is determined by the contracting officer.</p>
C	HSAR 3052.215-70 Key Personnel or Facilities.	Fill-In	<p>HSAR 3015.204-3</p> <p>Insert clause in solicitations/contracts when the selection for award is substantially based on the offeror's possession of special capabilities regarding personnel or facilities.</p>
C	HSAR 3052.216-71 Determination of Award Fee.	Fill-In	<p>HSAR 3016.406(e)(1)(i)</p> <p>Insert clause in solicitations/contracts that include an award fee.</p>
C	HSAR 3052.216-72 Performance Evaluation Plan.	Fill-In	<p>HSAR 3016.406(e)(1)(ii)</p> <p>Insert clause in all solicitations /contracts that include an award fee.</p>
C	HSAR 3052.216-73 Distribution of Award Fee.	Fill-In	<p>HSAR 3016.406(e)(1)(iii)</p> <p>Insert clause in all solicitations/contracts that include an award fee.</p>

C	HSAR 3052.217-91 Performance. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-92 Inspection and Manner of Doing Work. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-93 Subcontracts. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-94 Lay Days. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Clause may be included in sealed bid fixed-price solicitations and contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause may be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-95 Liability and insurance (USCG).		HSAR 3017.9000(a) and (b) USCG only / Vessels Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States. *The contracting officer may, in whole or in part (such as after incidents), increase the dollar amounts in the clause at (HSAR) 48 CFR 3052.217-95(b)(6) and (c)(1) consistent with contract size, inflation, and other circumstances.
C	HSAR 3052.217-96 Title. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-97 Discharge of Liens. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-98 Delays. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.

C	HSAR 3052.217-99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)	No Fill-In	HSAR 3017.9000(a) and (b) USCG only Vessel Repair Insert clause in sealed bid fixed-price solicitations /contracts for vessel repair, alteration, or conversion which are to be performed within the United States, its possessions, or Puerto Rico. Unless inappropriate, the clause should be included in negotiated solicitations/contracts to be performed outside the United States.
C	HSAR 3052.217-100 Guarantee. (USCG)	No Fill-In	HSAR 3017.9000(c) USCG only Vessel Repair Insert the clause in solicitations /contracts (for vessel repair, alteration, or conversion) where general guarantee provisions are deemed desirable by the contracting officer. (1) When inspection and acceptance tests will afford full protection to the Government in ascertaining conformance to specifications and the absence of defects and deficiencies, no guarantee clause for that purpose shall be included in the contract. (2) The customary guarantee period in the first sentence of the clause is 60 days. However, in certain instances, the contracting officer may desire to include a clause in a contract for a guarantee period of more than 60 days. In such instances: (i) Where, after full inquiry, it has been determined that such longer guarantee period will not involve increased costs, a longer guarantee period may be substituted by the contracting officer for the usual 60 days; or (ii) Where the full inquiry discloses that such longer guarantee period will involve, or is reasonably expected to involve, increased costs, such facts and the reasons for the need for such longer period shall be set forth in letter form to the COCO, requesting approval for use of guarantee period in excess of 60 days. Upon approval, the longer period may be inserted by the contracting officer in the first sentence of the clause at <u>HSAR 3052.217-100, Guarantee.</u>
C	HSAR 3052.219-71 DHS Mentor Protégé Program.	No Fill-In	HSAR 3019.708-70(a) Insert the clause in all solicitations/contracts that anticipate the need for a subcontracting plan. Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.
C	HSAR 3052.228-70 Insurance	No-Fill-In	HSAR 3028.310-70 Insert a clause in all solicitations/contracts that contain the clause at FAR 52.228-5.
C	HSAR 3052.228-90 Notification of Miller Act Payment Bond Protection. (USCG)	Fill-In	HSAR 3028.106-490 USCG only Insert the clause in solicitations/contracts and require first-tier subcontractors to insert the clause in all of their subcontracts, when payment bonds are required.
C	HSAR 3052.228-91 Loss of or Damage to Leased Aircraft. (USCG)	No Fill-In	HSAR 3028.306-90(a) & (b) USCG Only / Lease of Aircraft Insert the clause in any solicitation/contract for the lease of aircraft (including aircraft used in out-service flight training), except in the following circumstances: (1) When the hourly rental rate does not exceed \$250 and the total rental cost for any single transaction is not in excess of \$2,500; (2) When the cost of hull insurance does not exceed 10 percent of the contract rate; or (3) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

C	HSAR 3052.228-92 Fair Market Value of Aircraft. (USCG)	Fill-In	HSAR 3028.306-90(a) & (c) USCG Only / Lease of Aircraft For lease of an aircraft (including aircraft used in out-service flight training), insert the clause in solicitation/contract when fair market value of the aircraft can be determined.
C	HSAR 3052.228-93 Risk and Indemnities. (USCG)	No Fill-In	HSAR 3028.306-90(a) & (d) USCG Only / Lease of Aircraft 49 U.S.C. 44112, as amended, provides that no lessor of an aircraft under a bona fide lease of 30 days or more shall be liable by reason of his interest as lessor or title-holder of the aircraft for any injury to or death of persons, or damage to or loss of property, unless such aircraft is in the actual possession or control of such person at the time of such injury, death, damage or loss. On short-term or intermittent-use leases, however, the owner may be liable for damage caused by operation of the aircraft. It is usual for the aircraft owner to retain insurance covering this liability during the term of such lease. Such insurance can, often for little or no increase in premium, be made to cover the Government's exposure to liability as well. In order to take advantage of this coverage, the clause at HSAR <u>3052.228-93</u> prescribed in paragraph (d)(1) of this section shall be used. (1) For the U.S. Coast Guard, the contracting officer shall insert the clause at HSAR <u>3052.228-93</u> in any contract for out-service flight training or for the lease of aircraft when the Government will have exclusive use of the aircraft for a period of less than thirty days. (2) For the U.S. Coast Guard, any contract for out-service flight training shall include a clause in the contract schedule stating substantially that the contractor's personnel shall at all times during the course of the training be in command of the aircraft and that at no time shall other personnel be permitted to take command of the aircraft.
C	HSAR 3052.236-70 Special Precautions for Work at Operating Airports.	No Fill-in	HSAR 3036.570 Where any acquisition will require work at an operating airport, insert the clause in solicitations/contracts.
C	HSAR 3052.242-72 Contracting Officer's Representative.	No Fill-in	HSAR 3042.7000 Insert clause in solicitations/contracts when it is intended that a representative will be assigned to the contract to perform functions of a technical nature.

Clause Deviations, Special Agency Clauses, etc.

C/P	Clause/Provision	FT/IBR	Prescription / Applicability
C	52.203-17 , Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights. (DHS – USCG FAR DEVIATION 14-01)	FT (Due to the deviation)	FAR Class Deviation 14-01 / CGAP 3003.901 / USCG Only https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause in all solicitations and contracts expected to exceed the SAT. <i>The FAR version of Clause 52.203-17 is N/A to the USCG per FAR 3.908-1(b)(1), therefore, we must use the deviation.</i>
C	52.204-23 , Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (DEVIATION 20-05)	FT (Due to the deviation)	FAR 4.2004 / FAR Class Deviation 20-05 https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause in ALL solicitations and contracts.
C	52.204-25 , Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (DEVIATION 20-05, Revision 2)	FT (Due to the deviation)	FAR 4.2105(b) / FAR Class Deviation 20-05, Revision 2 https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause in ALL solicitations and contracts.
C	52.219-14 , Limitations on Subcontracting (DEVIATION 22-02, OCT 2021)	FT (Due to the deviation)	FAR 19.507(e) / FAR Class Deviation 22-02 Insert the deviated clause in solicitations, contracts and task/delivery orders if the following applies: (1) Contracts that have been set aside for any of the small business concerns identified in 19.000(a)(3); (2) Part or parts of a multiple-award contract that have been set aside for any of the small business concerns identified in 19.000(a)(3); (3) Contracts that have been awarded on a sole-source basis in accordance with subparts 19.8, 19.13, 19.14, and 19.15; (4) Orders expected to exceed the simplified acquisition threshold and that are— (i) Set aside for small business concerns under multiple-award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or (ii) Issued directly to small business concerns under multiple-award contracts as described in 19.504(c)(1)(ii); (5) Orders, regardless of dollar value, that are— (i) Set aside in accordance with subparts 19.8, 19.13, 19.14, or 19.15 under multiple award contracts, as described in 8.405-5 and 16.505(b)(2)(i)(F); or (ii) Issued directly to concerns that qualify for the programs described in subparts 19.8, 19.13, 19.14, or 19.15 under multiple-award contracts, as described in 19.504(c)(1)(ii); and (6) Contracts using the HUBZone price evaluation preference to award to a HUBZone small business concern unless the concern waived the evaluation preference. Note: Per FAR 19.000(b), N/A if work performed outside of the United States and its outlying areas.

C	52.219-18 , Notification of Competition Limited to Eligible 8(a) Concerns - Alternate III (DEVIATION 06-02)	FT (Due to the deviation) Fill-In	HSAM Appendix X (Partnership Agreement between SBA and DHS) / FAR Class Deviation 06-02 https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause with its Alternate III in competitive 8(a) solicitations and contracts when the acquisition is processed under the 8(a) Partnership Agreement cited in 19.800(e). The clauses at FAR 52.219-11, Special 8(a) Contract Conditions, 52.219-12, Special 8(a) Subcontract Conditions, and 52.219-17, Section 8(a) Award, <u>shall not be used</u> .
C	52.219-71 , Section 8(a) Direct Awards. (DEVIATION 06-02)	FT (Due to the deviation) Fill-In	HSAM Appendix X (Partnership Agreement between SBA and DHS) / FAR Class Deviation 06-02 https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause in direct award (sole source) contracts and purchase orders processed under the 8(a) Partnership Agreement cited at 19.800(e). The clauses at FAR 52.219-11, Special 8(a) Contract Conditions, 52.219-12, Special 8(a) Subcontract Conditions, and 52.219-17, Section 8(a) Award, <u>shall not be used</u> .
C	52.222-19 , Child Labor-Cooperation with Authorities and Remedies. (DEVIATION 20-07)	FT (Due to the deviation)	FAR 22.1505(b) / FAR Class Deviation 20-07 https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause in all solicitations/contracts for the acquisition of supplies that are expected to exceed the Micro-Purchase Thresholds.
C	52.223-99 , Ensuring Adequate COVID-19 Safety Protocols for Federal Contractors. (DEVIATION 22-01, OCT 2021)	FT (Due to the deviation)	FAR Class Deviation 22-01 / CAAC Letter 2021-03 **Per the CPO Memo to Contractors on the Nationwide Injunction of EO 14042 dated 12/08/2021, "DHS will take no action to enforce DHS FAR Class Deviation 22-01, Executive Order 14042, "Ensuring Adequate COVID Safety Protocols for Federal Contractors" in contracts, task orders, delivery orders or other contract-like instruments. At this time, all Government efforts to enforce the clause are suspended." **At this time <u>DO NOT</u> include Clause 52.223-99 in any solicitation, contract, task/delivery order, purchase order, or any contract-like instruments.
C	52.224-3 , Privacy Training – Alternate I (DEVIATION 17-03)	FT (Due to the deviation)	FAR 24.302 / FAR Class Deviation 17-03 https://www.dhs.gov/publication/current-far-deviations Insert the deviated clause in solicitations and contracts when, on behalf of the agency, contractor employees will– (1) Have access to a system of records; (2) Create, collect, use, process, store, maintain, disseminate, disclose, dispose, or otherwise handle personally identifiable information on behalf of the agency; or (3) Design, develop, maintain, or operate a system of records.

C	52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (DEVIATION 20-07)	FT (Due to the deviation)	<p>FAR 25.1101(b)(1) / FAR Class Deviation 20-07 https://www.dhs.gov/publication/current-far-deviations</p> <p>Insert the deviated clause in solicitations/contracts if— (A) The acquisition is for supplies, or for services involving the furnishing of supplies, for use within the United States, and the acquisition value is \$25,000 or more, but is less than \$183,000; (B) The acquisition <u>is not</u> for information technology that is a commercial product, using fiscal year 2004 or subsequent fiscal year funds; and (C) No exception in 25.401 applies. For acquisitions of agencies not subject to the Israeli Trade Act (see 25.406), see agency regulations.</p> <p>Use Alternate I if the acquisition value is \$25,000 or more but is less than \$50,000. Use Alternate II if the acquisition value is \$50,000 or more but is less than \$92,319. Use Alternate III if the acquisition value is \$92,319 or more but is less than \$100,000. Note: N/A to Small Business Set-Asides (See FAR 25.401(a) for other exceptions)</p>
C	52.225-5, Trade Agreements (DEVIATION 20-07)	FT (Due to the deviation)	<p>FAR 25.1101(c)(1) / FAR Class Deviation 20-07 https://www.dhs.gov/publication/current-far-deviations</p> <p>Insert the deviated clause in solicitations and contracts valued at \$183,000 or more, if the acquisition is covered by the WTO GPA (see <u>subpart 25.4</u>) and the agency has determined that the restrictions of the Buy American statute are not applicable to U.S.-made end products. If the agency has not made such a determination, the contracting officer must follow agency procedures. Note: N/A to Small Business Set-Asides (See FAR 25.401(a) for other exceptions)</p>
C	DHS Special Clause: Safeguarding of Sensitive Information (Mar 2015) (HSAR Class Deviation 15-01)	FT	<p>HSAR Class Deviation 15-01 https://www.dhs.gov/publication/currenthsardeviations</p> <p>Insert the special clause in the solicitation/contract if determined to be high risk where:</p> <ul style="list-style-type: none"> • a contractor will have access to sensitive information; or • contractor IT systems are used to input, store, process, output, and/or transmit sensitive information. <p><u>Do not</u> insert the clause in solicitation/contract if HSAR Clause 3052.204-70 is inserted into the solicitation/contract.</p>
C	DHS Special Clause: Information Technology Security and Privacy Training (Mar 2015) (HSAR Class Deviation 15-01)	FT	<p>HSAR Class Deviation 15-01 https://www.dhs.gov/publication/currenthsardeviations</p> <p>Insert the special clause in the solicitation/contract if DHS special clause Safeguarding of Sensitive Information (MAR 2015) is included in the solicitation or contract. <u>Do not</u> insert the clause in solicitation/contract if HSAR Clause 3052.204-70 is inserted into the solicitation/contract.</p>
C	Electronic Submission of Payment Requests (FSMS Awards)	FT	<p>CG-913 Policy Notice FY22-002 dated 11/30/2021, updated 4/12/2022</p> <p>Include the clause in new FY22 with FY22 obligations (and after) solicitations/contracts when contractors will submit invoices using the Invoice Processing Platform (IPP).</p>

C	Electronic Submission of Payment Requests (NESSS Awards)	FT	CG-913 Policy Notice FY22-002 dated 11/30/2021, updated 4/12/2022 Include the clause in new FY22 with FY22 obligations (and after) solicitations/contracts when contractors will submit invoices using the Invoice Processing Platform (IPP).
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SECTION 2 - PROVISIONS

Below are the basic Provisions for the acquisition of Commercial Products/Services. (FAR 12.301(b) – (c))

C / P	Clause/Provision	FT/IBR	Prescription / Applicability
P	FAR 52.212-1 , Instructions to Offerors—Commercial Products and Commercial Services	IBR	FAR 12-301(b)(1) Insert the provision in solicitations for the acquisition of commercial products/services. This provision provides a single, streamlined set of instructions to be used when soliciting offers for commercial products/services and is incorporated in the solicitation by reference (see Block 27 a, SF 1449). The contracting officer may tailor these instructions or provide additional instructions tailored to the specific acquisition in accordance with 12.302.
P	FAR 52.212-2 , Evaluation—Commercial Products and Commercial Services	FT	FAR 12-301(c) When the use of evaluation factors is appropriate, the contracting officer may insert provision 52.212-2 in solicitation for commercial products/services <u>or</u> include a similar provision containing all evaluation factors required by <u>13.106</u> , <u>subpart 14.2</u> or <u>subpart 15.3</u> , as an addendum (see <u>12.302(d)</u>).
P	FAR 52.212-3 , Offeror Representations and Certifications— Commercial Products and Commercial Services. <i>with Alternate I</i>	FT	FAR 12-301(b)(2) Insert the provision in solicitations for the acquisition of commercial products/services. This provision provides a single, consolidated list of representations and certifications for the acquisition of commercial products/services and is attached to the solicitation for offerors to complete. *Provision <u>may not</u> be tailored, except IAW FAR 1.4 Use Alternate I in solicitations issued by DoD, NASA, or the <u>Coast Guard</u>.

Below are other required (if applicable) provisions for the acquisition of Commercial Products/Services. (See FAR 12.301(d))

C/P	Clause/Provision	FT/IBR Fill-In	Prescription / Applicability
P	FAR 52.204-7, System for Award Management	IBR No Fill-In	<p>FAR 12-301(d)(1) / FAR 4.1105(a)</p> <p>Insert the provision in all solicitations, except when the conditions in 4.1102(a) apply.</p> <p>4.1102(a): Offerors and quoters are required to be registered in SAM at the time an offer or quotation is submitted in order to comply with the annual representations and certifications requirements except for –</p> <p>(1) Purchases under the micro-purchase threshold that use a Governmentwide commercial purchase card as both the purchasing and payment mechanism, as opposed to using the purchase card for payment only;</p> <p>(2) Classified contracts (see <u>2.101</u>) when registration in the SAM, or use of SAM data, could compromise the safeguarding of classified information or national security;</p> <p>(3) Contracts awarded by—</p> <p>(i) Deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(8);</p> <p>(ii) Contracting officers located outside the United States and its outlying areas, as defined in <u>2.101</u>, for work to be performed in support of diplomatic or developmental operations, including those performed in support of foreign assistance programs overseas, in an area that has been designated by the Department of State as a danger pay post (see http://aoprals.state.gov/Web920/danger_pay_all.asp); or</p> <p>(iii) Contracting officers in the conduct of emergency operations, such as responses to natural or environmental disasters or national or civil emergencies, e.g., Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121);</p> <p>(4) Contracts with individuals for performance outside the United States and its outlying areas;</p> <p>(5) Contracts awarded without providing for full and open competition due to unusual or compelling urgency (see <u>6.302-2</u>) (<i>Use Alternate I of the clause</i>);</p> <p>(6) Contract actions at or below \$30,000 awarded to foreign vendors for work performed outside the United States, if it is impractical to obtain SAM registration; and</p> <p>(7) Micro-purchases that do not use the electronic funds transfer (EFT) method for payment and are not required to be reported (see <u>Subpart 4.6</u>).</p> <p>Use Alternate I when the solicitation is anticipated to be awarded in accordance with 4.1102(a)(5), contracts awarded without providing for full and open competition due to unusual or compelling urgency (see <u>6.302-2</u>).</p>
P	FAR 52.204-16, Commercial and Government Entity Code Reporting	IBR No Fill-In	<p>FAR 12-301(d)(3) / 4.1804(a)</p> <p>Insert the provision in all solicitations that include provision 52.204-6 or 52.204-7, System for Award Management.</p> <p>(This provision will be applicable for most solicitations.)</p>
P	FAR 52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment	FT No Fill-In	<p>FAR 12-301(d)(6) / 4.2105(a)</p> <p>Insert the provision –</p> <p>(1) In all solicitations for contracts; and</p> <p>(2) Under indefinite delivery contracts, in all notices of intent to place an order, or solicitations for an order (e.g. , subpart 8.4 and 16.505).</p>

P	FAR 52.207-6 , Solicitation of Offers from Small Business Concerns and Small Business Teaming Arrangements or Joint Ventures (Multiple-Award Contracts)	IBR No Fill-In	FAR 12-301(d)(7) and 7.107-6 Insert the provision in solicitations for multiple-award contracts above the substantial bundling threshold of the agency (see <u>7.107-4(a)</u>). <i>FAR 7.107-4(a)(1)(iii) – Threshold for USCG is \$2.5M or more.</i>
P	FAR 52.209-7 , Information Regarding Responsibility Matters.	FT	FAR 12-301(d)(8) and FAR 9.104-7(b) Insert the provision in the solicitation where the resultant contract value is expected to exceed \$600,000.
P	FAR 52.209-12 , Certification Regarding Tax Matters	FT	FAR 12-301(d)(9) and FAR 9.104-7(e) N/A for DHS/USCG
P	FAR 52.222-56 , Certification Regarding Trafficking in Persons Compliance Plan	IBR No Fill-In	FAR 12-301(d)(10) and FAR 22.1705(b) Insert the provision in solicitations if - (1) It is possible that at least \$550,000 of the value of the contract may be performed outside the United States (<i>50 States, the District of Columbia, and outlying areas</i>); <u>and</u> (2) The acquisition is not entirely for commercially available off-the-shelf items.
P	FAR 52.229-11 , Tax on Certain Foreign Procurements—Notice and Representation	IBR No Fill-In	FAR 12.301(d)(12) FAR 29.402-3(a) Insert the provision in solicitations, including solicitations using FAR part 12 procedures for the acquisition of commercial products/services, unless one of the following exceptions applies: (1) Acquisitions using simplified acquisition procedures that do not exceed the simplified acquisition threshold (as defined in 2.101). (2) Emergency acquisitions using the emergency acquisition flexibilities defined in part 18. (3) Acquisitions using the unusual and compelling urgency authority per 6.303-2. (4) Contracts with a single individual for personal services that will not exceed the simplified acquisition threshold on an annual calendar year basis for all years of the contract. (5) Acquisitions if the requiring activity identifies that the requirement is for certain foreign humanitarian assistance contracts which are payments made by the U.S. Government agencies pursuant to a contract with a foreign contracting party to obtain goods or services described in or authorized under 7 U.S.C. 1691, et seq., 22 U.S.C. 2151, et seq., 22 U.S.C. 2601 et seq., 22 U.S.C. 5801 et seq., 22 U.S.C. 5401 et seq., 10 U.S.C. 402, 10 U.S.C. 404, 10 U.S.C. 407, 10 U.S.C. 2557, and 10 U.S.C. 2561.

Below are some “discretionary” (if applicable) provisions that may be added to a Commercial Solicitation. See FAR 12.301(e)(1)-(4) The contracting officer may include the following provisions (if applicable) in solicitations by addendum to FAR Provision 52.212-1 when their use is consistent with the limitations contained in [12.302](#).

C/P	Clause/Provision	FT/IBR Fill-In	Prescription / Applicability
P	FAR 52.211-6, Brand Name or Equal	IBR No Fill-In	FAR 11.407(a) Insert the provision in solicitations when “brand name or equal” descriptions are included in a solicitation.
P	FAR 52.216-27, Single or Multiple Awards	IBR No Fill-In	FAR 12.301(e)(1) & FAR 16.506(f) Insert the provision in solicitations for indefinite-quantity contracts that may result in multiple contract awards. Modify the provision to specify the estimated number of awards. Do not use this provision for advisory and assistance services contracts that exceed 3 years and \$15 million (including all options).
P	FAR 52.216-28, Multiple Awards for Advisory and Assistance Services	IBR No Fill-In	FAR 12.301(e)(1) & FAR 16.506(g) Insert the provision in solicitations for task-order contracts for advisory and assistance services that exceed 3 years and \$15 million (including all options), unless a determination has been made under 16.504(c)(2)(i)(A). Modify the provision to specify the estimated number of awards.
P	FAR 52.216-31, Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Acquisitions	IBR No Fill-In	FAR 16.601(f)(3) Insert the provision in solicitations contemplating use of a Commercial Time-and-Materials or Labor-Hour contract.
P	FAR 52.217-3, Evaluation Exclusive of Options	IBR No Fill-In	FAR 12.301(e)(2) & FAR 17.208(a) Insert provision in solicitations when the solicitation includes an option clause and does not include 52.217-4 or 52.217-5. (52.212-2 includes evaluation of options.) Note: Don’t use this provision if Provision 52.212-2 is in your solicitation, see paragraph (b). You can tailor paragraph (b) of 52.212-2.
P	FAR 52.217-4, Evaluation of Options Exercised at Time of Contract Award	IBR No Fill-In	FAR 12.301(e)(2) & FAR 17.208(b) Insert a provision substantially the same as the provision 52.217-4 in solicitations when the solicitation includes an option clause, the contracting officer has determined that there is a reasonable likelihood that the option will be exercised, and the option may be exercised at the time of contract award. Note: Don’t use this provision if Provision 52.212-2 is in your solicitation, see paragraph (b). You can tailor paragraph (b) of 52.212-2.
P	FAR 52.217-5, Evaluation of Options.	IBR No Fill-In	FAR 12.301(e)(2) & FAR 17.208(c) Insert a provision substantially the same as provision 52.217-5 in solicitations when— (1) The solicitation contains an option clause; (2) An option is not to be exercised at the time of contract award; (3) A firm-fixed-price contract, a fixed-price contract with economic price adjustment, or other type of contract approved under agency procedures is contemplated; and (4) The contracting officer has determined that there is a reasonable likelihood that the option will be exercised. For sealed bids, the determination shall be in writing. Note: Don’t use this provision if Provision 52.212-2 is in your solicitation, see paragraph (b). You can tailor paragraph (b) of 52.212-2.
P	FAR 52.222-24, Preaward On-Site Equal Opportunity Compliance Evaluation	IBR No Fill-In	FAR 22.810(c) Insert the provision in solicitations, other than those for construction, when a contract is contemplated that will include clause 52.222-26 , Equal Opportunity, and the amount of the contract is expected be \$10 million or more.

P	FAR 52.223-1 , Biobased Product Certification	IBR No Fill-In	FAR 12.301(e)(3) & FAR 23.406(a) Insert the provision in solicitations that— (1) Require the delivery or specify the use of USDA-designated items; or (2) Include the clause at 52.223-2.
P	FAR 52.223-4 , Recovered Material Certification	IBR No Fill-In	FAR 12.301(e)(3) & FAR 23.406(c) Except for the acquisition of commercially available off-the-shelf items, insert the provision in solicitations that— (1) Require the delivery or specify the use of EPA-designated items; or (2) Include the clause at 52.223-17, Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.
P	FAR 52.226-3 , Disaster or Emergency Area Representation	FT Fill-In	FAR 12.301(e)(4) / FAR 26.206(a) When setting aside under the Stafford Act (subpart 26.2), include the provision in the solicitation. The representation in this provision is not in the System for Award Management.
P	FAR 52.233-2 , Service of Protest	FT	FAR 33.106(a) Insert the provision in solicitations for contracts expected to exceed the SAT.
P	FAR 52.252-1 , Solicitation Provisions Incorporated by Reference.	FT Fill-In	FAR 52.107(a) Insert the provision in solicitations in order to incorporate provisions by reference.
P	FAR 52.252-5 , Authorized Deviations in Provisions.	FT Fill-In	FAR 52.107(e) Insert the provision in solicitations that include any FAR or supplemental provision with an authorized deviation. Whenever any FAR or supplemental provision is used with an authorized deviation, the contracting officer shall identify it by the same number, title, and date assigned to the provision when it is used without deviation, include regulation name for any supplemental provision, except that the contracting officer shall insert “(DEVIATION)” after the date of the provision.

Provision Deviations

C/P	Clause/Provision	FT/IBR	Prescription / Applicability
P	52.225-4 , Buy American—Free Trade Agreement—Israeli Trade Act Certificate (DEVIATION 20-07)	FT (Due to the deviation)	FAR 25.1101(b)(2) / FAR Class Deviation 20-07 https://www.dhs.gov/publication/current-far-deviations Insert the deviated provision in solicitations containing the clause at 52.225-3 (Deviation 20-07). Use Alternate I if the acquisition value is \$25,000 or more but is less than \$50,000. Use Alternate II if the acquisition value is \$50,000 or more but is less than \$92,319. Use Alternate III if the acquisition value is \$92,319 or more but is less than \$100,000. Note: N/A to Small Business Set-Asides (See FAR 25.401(a) for other exceptions)

SECTION 3

The requirements in some of the following clauses and provisions are already addressed/covered in 52.212-1 – 52.212-5, therefore, you should not include the clauses and provisions below if 52.212-1 – 52.212-5 are in your solicitation/contract.

Some of the below clauses and provisions are not applicable to commercial product/service acquisitions.

Clause/Provision	Covered by:
52.202-1, Definitions	IBR in 52.212-4(e)
52.203-3, Gratuities.	52.212-4(r)
52.203-5, Covenant Against Contingent Fees	N/A for Commercial acquisitions (see FAR 3.404 and 12.503(a)(2))
52.203-6, Restrictions on Subcontractor Sales to the Government (with Alt I)	Check the clause as applicable in Clause 52.212-5
52.203-7, Anti-Kickback Procedures	52.212-4(r) covers Kickbacks Clause 52.203-7 N/A for Commercial acquisitions (See FAR 12.503(b)(3) and 3.502-3)
52.203-11, Certification & Disclosure Regarding Payments to Influence Certain Federal Transactions	52.212-3(e)
52.203-12, Limitation on Payments to Influence Certain Federal Transactions	52.212-4(r)
52.203-13, Contractor Code of Business Ethics and Conduct	Check the clause as applicable in Clause 52.212-5
52.203-14, Display of Hotline Poster(s)	N/A for Commercial acquisitions
52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009	Check the clause as applicable in Clause 52.212-5
52.203-16, Preventing Personal Conflicts of Interest	N/A for Commercial acquisitions See FAR 12.503(a)(9)
52.203-18, Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation.	52.212-3 (u)
52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements	IBR in 52.212-5(a)
52.204-3, Taxpayer Identification	52.212-3 (l)
52.204-4, Printed or Copied Double-Sided on Postconsumer Fiber Content Paper.	N/A for Commercial acquisition
52.204-5, Women-Owned Business (Other than Small Business)	52.212-3(c)(8)
52.204-6, Unique Entity Identifier.	52.212-1(j)
52.204-8 Annual Representations and Certifications	52.204-8 is not applicable for CI; use 52.212-3 for CI
52.204-10, Reporting Executive Compensation and First –Tier Subcontract Awards	Check the clause as applicable in Clause 52.212-5
52.204-12, Unique Entity Identifier Maintenance.	52.212-4(t)
52.204-14, Service Contract Reporting Requirements.	Check the clause as applicable in Clause 52.212-5
52.204-15, Service Contract Reporting Requirements for Indefinite-Delivery Contracts.	Check the clause as applicable in Clause 52.212-5
52.204-17, Ownership or Control of Offeror.	52.212-3(p)
52.204-19 Incorporation by Reference of Representations and Certifications	52.212-4 (v)
52.204-20, Predecessor of Offeror	52.212-3(r)
52.204-22, Alternative Line Item Proposal	52.212-1(e)

52.204-26, Covered Telecommunications Equipment or Services-Representation	52.212-3(v)
52.209-2, Prohibition on Contracting with Inverted Domestic Corps-Representation	52.212-3(n)
52.209-5, Certification Regarding Responsibility Matters.	52.212-3(h)
52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.	Check the clause as applicable in Clause 52.212-5
52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters.	Check the clause as applicable in Clause 52.212-5
52.209-10, Prohibition on Contracting with Inverted Domestic Corporations	IBR in 52.212-5(a)
52.209-11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.	52.212-3(q)
52.209-12, Certification Regarding Tax Matters	N/A for DHS/USCG See FAR 9.104-7(e)
52.209-13, Violation of Arms Control Treaties or Agreements-Certification	N/A for Commercial acquisition See FAR 9.109-5 & 12.503(b)(1)
52.216-23, Execution and Commencement of Work.	Only for letter contracts
52.216-24, Limitation of Government Liability.	Only for letter contracts
52.216-25, Contract Definitization.	Only for letter contracts
52.219-1, Small Business Program Representations.	52.212-3(c)
52.219-3, Notice of HUBZone Set-Aside or Sole Source Award.	See Clause 52.212-5
52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns.	See Clause 52.212-5
52.219-6, Notice of Total Small Business Set-Aside.	Check the clause as applicable in Clause 52.212-5
52.219-7, Notice of Partial Small Business Set-Aside.	Check the clause as applicable in Clause 52.212-5
52.219-8, Utilization of Small Business Concerns.	Check the clause as applicable in Clause 52.212-5
52.219-9, Small Business Subcontracting Plan	Check the clause as applicable in Clause 52.212-5
52.219-13, Notice of Set-Aside of Orders.	Check the clause as applicable in Clause 52.212-5
52.219-14, Limitations on Subcontracting.	See Clause 52.212-5
52.219-16, Liquidated Damages—Subcontracting Plan	Check the clause as applicable in Clause 52.212-5
52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside.	See Clause 52.212-5
52.219-28, Post-Award Small Business Program Rerepresentation.	Check the clause as applicable in Clause 52.212-5
52.219-29, Notice of Set-Aside for, or Sole Source Awards to, Economically Disadvantaged Women-Owned Small Business Concerns. (EDWOSB)	See Clause 52.212-5
52.219-30, Notice of Set-Aside for, or Sole Source to, Women-Owned Small Business (WOSB) Concerns Eligible Under the Women-Owned Small Business Program.	See Clause 52.212-5
52.219-32, Orders Issued Directly Under Small Business Reserves	Check the clause as applicable in Clause 52.212-5
52.219-33, Nonmanufacturer Rule.	See Clause 52.212-5
52.222-1, Notice to the Government of Labor Disputes.	Include in solicitation only if HCA approves
52.222-3, Convict Labor.	Check the clause as applicable in Clause 52.212-5
52.222-4, Contract Work Hours and Safety Standards —Overtime Compensation	N/A for Commercial acquisitions See FAR 22.305(b) and 12.503(b)(2)

52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.	52.212-3(i)
52.222-19, Child Labor—Cooperation with Authorities and Remedies.	Check the clause as applicable in Clause 52.212-5
52.222-20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000.	N/A for Commercial acquisitions See FAR 12.503(a)(1)
52.222-21, Prohibition of Segregated Facilities.	Check the clause as applicable in Clause 52.212-5
52.222-22, Previous Contracts and Compliance Reports.	52.212-3(d)(1)
52.222-25, Affirmative Action Compliance.	52.212-3(d)(2)
52.222-26, Equal Opportunity	Check the clause as applicable in Clause 52.212-5
52.222-35, Equal Opportunity for Veterans	Check the clause as applicable in Clause 52.212-5
52.222-36, Equal Opportunity for Workers with Disabilities.	Check the clause as applicable in Clause 52.212-5
52.222-37, Employment Reports on Veterans.	Check the clause as applicable in Clause 52.212-5
52.222-38, Compliance with Veterans' Employment Reporting Requirements	N/A for Commercial acquisitions See FAR 12.503(a)(5) and 22.1310(c)
52.222-40, Notification of Employee Rights Under the National Labor Relations Act.	Check the clause as applicable in Clause 52.212-5
52.222-41, Service Contract Labor Standards	Check the clause as applicable in Clause 52.212-5
52.222-42 Statement of Equivalent Rates for Federal Hires	Check the clause as applicable in Clause 52.212-5
52.222-43, Fair Labor Standards Act and Service Contract Labor Standards —Price Adjustment (Multiple Year and Option Contracts).	Check the clause as applicable in Clause 52.212-5
52.222-44, Fair Labor Standards Act and Service Contract Labor Standards —Price Adjustment	Check the clause as applicable in Clause 52.212-5
52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.	52.212-3(k)(1)
52.222-50, Combating Trafficking in Persons.	Check the clause as applicable in Clause 52.212-5
52.222-51, Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements.	Check the clause as applicable in Clause 52.212-5
52.222-52, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Certification.	52.212-3(k)(2)
52.222-53, Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services—Requirements.	Check the clause as applicable in Clause 52.212-5
52.222-54, Employment Eligibility Verification.	Check the clause as applicable in Clause 52.212-5
52.222-55, Minimum Wages Under Executive Order 13658	Check the clause as applicable in Clause 52.212-5
52.222-57, Representation Regarding Compliance with Labor Laws (Executive Order 13673).	52.212-3(s)
52.222-61, Arbitration of Contractor Employee Claims (Executive Order 13673).	N/A for Commercial acquisition (See FAR 22.2007(e))
52.222-62, Paid Sick Leave Under Executive Order 13706	Check the clause as applicable in Clause 52.212-5
52.223-6, Drug-Free Workplace.	N/A for Commercial acquisition (See FAR 23.505, 23.501(b), and 12.503(a)(4))

52.223-9, Estimate of Percentage of Recovered Material Content for EPA-Designated Items.	Check the clause as applicable in Clause 52.212-5
52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons	Check the clause as applicable in Clause 52.212-5
52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners	Check the clause as applicable in Clause 52.212-5
52.223-13, Acquisition of EPEAT®-Registered Imaging Equipment.	Check the clause as applicable in Clause 52.212-5
52.223-14, Acquisition of EPEAT®-Registered Televisions.	Check the clause as applicable in Clause 52.212-5
52.223-15, Energy Efficiency in Energy-Consuming Products.	Check the clause as applicable in Clause 52.212-5
52.223-16, Acquisition of EPEAT®-Registered Personal Computer Products	Check the clause as applicable in Clause 52.212-5
52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving.	Check the clause as applicable in Clause 52.212-5
52.223-20, Aerosols	Check the clause as applicable in Clause 52.212-5
52.223-21, Foams	Check the clause as applicable in Clause 52.212-5
52.223-22, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.	52.212-3(t)
52.224-3, Privacy Training	See Clause 52.212-5
52.225-1, Buy American - Supplies.	Check the clause as applicable in Clause 52.212-5
52.225-2, Buy American Act Certificate.	52.212-3(f)
52.225-3, Buy American—Free Trade Agreements—Israeli Trade Act.	See Clause 52.212-5
52.225-4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate.	52.212-3(g)(1)
52.225-5, Trade Agreements	See Clause 52.212-5
52.225-6, Trade Agreements Certificate	52.212-3(g)(5)
52.225-13, Restrictions on Certain Foreign Purchases	Check the clause as applicable in Clause 52.212-5
52.225-18, Place of Manufacture	52.212-3(j)
52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification	52.212-3(m)
52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications	52.212-3(o)
52.225-26, Contractors Performing Private Security Functions Outside the United States	Check the clause as applicable in Clause 52.212-5
52.226-4, Notice of Disaster or Emergency Area Set-Aside.	Check the clause as applicable in Clause 52.212-5
52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area.	Check the clause as applicable in Clause 52.212-5
52.226-6, Promoting Excess Food Donation to Nonprofit Organizations	Check the clause as applicable in Clause 52.212-5
52.229-3, Federal, State, and Local Taxes	52.212-4(k)
52.229-4, Federal, State, and Local Taxes (State and Local Adjustments)	52.212-4(k)
52.229-12, Tax on Certain Foreign Procurements.	Check the clause as applicable in Clause 52.212-5
52.232-1, 52.232-2, 52.232-3, 52.232-4, 52.232-5, 52.232-6, 52.232-7, 52.232-8, 52.232-9, 52.232-10, and 52.232-11	N/A for Commercial acquisitions See FAR 32.100

52.232-17, Interest.	52.212-4(i)(6)
52.232-23, Assignment of Claims.	52.212-4(b)
52.232-25, Prompt Payment.	N/A Commercial acquisition, 52.212-4 covers prompt payment
52.232-29, Terms for Financing of Purchases of Commercial Products and Commercial Services	Check the clause as applicable in Clause 52.212-5
52.232-30, Installment Payments for Commercial Products and Commercial Services	Check the clause as applicable in Clause 52.212-5
52.232-33, Payment by Electronic Funds Transfer-System for Award Management.	Check the clause as applicable in Clause 52.212-5
52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management.	Check the clause as applicable in Clause 52.212-5
52.232-36, Payment by Third Party.	Check the clause as applicable in Clause 52.212-5
52.232-39, Unenforceability of Unauthorized Obligations.	52.212-4(u)
52.233-1, Disputes.	IBR in 52.212-4(d)
52.233-3, Protest after Award.	IBR in 52.212-5(a)
52.233-4, Applicable Law for Breach of Contract Claim.	IBR in 52.212-5(a)
52.239-1, Privacy or Security Safeguards.	Check the clause as applicable in Clause 52.212-5
52.242-5, Payments to Small Business Subcontractors	Check the clause as applicable in Clause 52.212-5
52.242-13, Bankruptcy.	N/A for Commercial acquisition
52.244-6, Subcontracts for Commercial Products and Commercial Services	N/A for Commercial acquisition (See 44.403) FAR Clause 52.212-5(e) covers what clauses a contractor must flow down to a subcontract
52.246-2 Inspection of Supplies—Fixed-Price.	N/A for Commercial; Clause 52.212-4(a) covers Inspection/Acceptance.
52.246-4 Inspection of Services—Fixed-Price.	N/A for Commercial; Clause 52.212-4(a) covers Inspection/Acceptance.
52.246-6 Inspection—Time-and-Material and Labor-Hour.	N/A for Commercial; Use Clause 52.212-4 with Alternate I for a T&M or LH commercial contract
52.246-23, Limitation of Liability.	52.212-4(p)
52.246-24, Limitation of Liability—High-Value Items.	52.212-4(p)
52.246-25, Limitation of Liability—Services.	52.212-4(p)
52.247-63, Preference for U.S.-Flag Air Carriers.	N/A for Commercial acquisition See 47.405 and 12.503(b)(4)
52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels.	Check the clause as applicable in Clause 52.212-5
52.249-1, Termination for Convenience of the Government (Fixed-Price) (Short Form)	52.212-4(l)
52.249-2, Termination for Convenience of the Government (Fixed-Price).	52.212-4(l)
52.249-4, Termination for Convenience of the Government (Services) (Short Form).	52.212-4(l)
52.249-8, Default (Fixed-Price Supply and Service).	Termination for Default is N/A to Commercial acquisition
52.253-1, Computer Generated Forms	N/A for Commercial acquisition