PART II – CONTRACT CLAUSES

SECTION I

CONTRACT CLAUSES

I.1 FAR 52.252-2, CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This Contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at these addresses:

https://www.acquisition.gov/?q=browsefar

http://energy.gov/management/downloads/searchable-electronic-department-energy-acquisition-regulation

Clause No.	FAR/DEAR Reference	Title	Fill-In Information See FAR 52.104(d)
I.2	52.202-1	Definitions (Nov 2013)	
I.3	52.203-3	Gratuities (Apr 1984)	
I.4	52.203-5	Covenant Against Contingent Fees (May 2014)	
I.5	52.203-6	Restrictions on Subcontractor Sales to the Government (Sep 2006)	
I.6	52.203-7	Anti-Kickback Procedures (May 2014)	
I.7	52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity (May 2014)	
I.8	52.203-10	Price or Fee Adjustment for Illegal or Improper Activity (May 2014)	
I.9	52.203-12	Limitation on Payments to Influence Certain Federal Transactions (Oct 2010)	
I.10	52.203-13	Contractor Code of Business Ethics and Conduct (Oct 2015)	
I.11	52.203-14	Display of Hotline Poster(s) (Oct 2015)	(b)(3) DOE IG Hotline Poster: http://energy.gov/sites/prod/files/igprod/documents/Hotline_poster.pdf
I.12	52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Apr 2014)	
I.13	52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (May 2011)	
I.14	52.204-9	Personal Identity Verification of Contractor Personnel (Jan 2011)	
I.15	52.204-10	Reporting Executive Compensation and First-Tier	

		Subcontract Awards (Oct 2015)	
I.16	52.204-13	System for Award Management Maintenance (Jul 2013)	
I.17	52.204-14	Service Contract Reporting Requirements (Jan 2014)	
I.18	52.204-15	Service Contract Reporting Requirements for Indefinite-Delivery Contracts (Jan 2014)	
I.19	52.204-18	Commercial and Government Entity Code Maintenance (Jul 2015Jul 2015)	
I.20	52.204-19	Incorporation by Reference of Representations and Certifications (Dec 2014)	
I.21	52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, Or Proposed for Debarment (Oct 2015)	
I.22	52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters (Jul 2013)	
I.23	52.209-10	Prohibition on Contracting With Inverted Domestic Corporations (Nov 2015)Nov 2015)	
I.24	52.210-1	Market Research (Apr 2011)	
I.25	52.215-2	Audit and Records – Negotiation (Oct 2010)	
I.26	52.215-8	Order of Precedence – Uniform Contract Format (Oct 1997)	
I.27	52.215-11	Price Reduction for Defective Certified Cost or Pricing Data – Modifications (Aug 2011)	
I.28	52.215-13	Subcontractor Certified Cost or Pricing Data – Modifications (Oct 2010)	
I.29	52.215-15	Pension Adjustments and Asset Reversions (Oct 2010)	
I.30	52.215-17	Waiver of Facilities Capital Cost of Money (Oct 1997) **NOTE: This clause will not be included in the contract if awardee proposes Facilities Capital Cost of Money in its proposal.**	
I.31	52.215-18	Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other Than Pensions (Jul 2005)	
I.32	52.215-19	Notification of Ownership Changes (Oct 1997)	
I.33	52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data – Modifications (Oct 2010) (Alt. III (Oct 1997))	(c) Microsoft® (MS) Word®, Access®, or Excel® (Version 2010 or higher), or Adobe Acrobat®
I.34	52.215-23	Limitations on Pass-Through Charges (Oct 2009)	
I.35	52.216-7	Allowable Cost and Payment (Jun 2013)	(a)(3)30th (cost invoices) and 30th (fee invoices)
I.36	52.216-11	Cost Contract-No Fee (Apr 1984)	
I.37	52.216-18	Ordering (Oct 1995) *See full text version in Section I below (applies to IDIQ CLINs only)*	(a) the date of contract award through the end of contract performance as specified in Section F
I.38	52.216-19	Order Limitations (Oct 1995) *See full text version in Section I below (applies to IDIQ CLINs only)*	(a) $0 (b)(1) $112,000,000 (b)(2) $112,000,000 (b)(3) 365 (d) 5
I.39	52.216-22	Indefinite Quantity (Oct 1995) *See full text version in Section I below (applies to IDIQ*	(d) one year beyond the expiration date of

		CLINs only)	the contract period
I.40	52.217-8	Option to Extend Services (Nov 1999)	30 days of the contract expiration date
I.41	52.217-9	Option To Extend The Term Of The Contract (Mar 2000) *See full text version in Section I below*	(a) <u>any time period prior to the expiration of the contract</u> (b) 30 calendar days (c)10 years
I.42	52.219-4	Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Oct 2014)	OFFEROR FILL-IN: [ ] Offeror elects to waive the evaluation preference**.**
I.43	52.219-8	Utilization of Small Business Concerns (Oct 2014)	
I.44	52.219-9	Small Business Subcontracting Plan (Oct 2015) – Alt II (Oct 2001)	
I.45	52.219-16	Liquidated Damages – Subcontracting Plan (Jan 1999)	
I.46	52.219-28	Post-Award Small Business Program Representation (Jul 2013)	(g) Contractor fill-in after award, as applicable.
I.47	52.222-1	Notice to the Government of Labor Disputes (Feb 1997)	
I.48	52.222.2	Payment for Overtime Premiums (Jul 1990)	(a) $0
I.49	52.222-3	Convict Labor (Jun 2003)	
I.50	52.222-4	Contract Work Hours and Safety Standards – Overtime Compensation (May 2014)	
I.51	52.222-17	Nondisplacement of Qualified Workers (May 2014)	
I.52	52.222-21	Prohibition of Segregated Facilities (Apr 2015)	
I.53	52.222-26	Equal Opportunity (Apr 2015))	
I.54	52.222-30	Construction Wage Requirements – Price Adjustment (None or Separately Specified Method) (May 2014)	
I.55	52.222-35	Equal Opportunity for Veterans (Oct 2015)	
I.56	52.222-36	Equal Opportunity for Workers With Disabilities (Jul 2014)	
I.57	52.222-37	Employment Reports on Veterans (Feb 2016)Feb 2016)	
I.58	52.222-40	Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)	
I.59	52.222-41	Service Contract Labor Standards (May 2014)	
I.60	52. 222-42	Statement Of Equivalent Rates For Federal Hires (May 2014) *See full text version in Section I below*	
I.61	52.222-43	Fair Labor Standards Act and Service Contract Labor Standards – Price Adjustment (Multiple Year and Option Contracts) (May 2014)	
I.62	52.222-50	Combating Trafficking in Persons (Mar 2015)	
I.63	52.222-54	Employment Eligibility Verification (Oct 2015)	
I.64	52.222-55	Minimum Wages Under Executive Order 13658 (Dec 2015)	
I.65	52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts (Sep 2013)	
I.66	52.223-3	Hazardous Material Identification and Material Safety Data (Jan 1997) – Alt I (Jul 1995)	(b) [OFFEROR Fill-In]
I.67	52.223-5	Pollution Prevention and Right-to-Know Information (May 2011)	
I.68	52.223-6	Drug-Free Workplace (May 2001)	

I.69	52.223-7	Notice Of Radioactive Materials (Jan 1997) *See full text version in Section I below*	(a) 60
I.70	52.223-9	Estimate Of Percentage Of Recovered Material Content For EPA-Designated Items (May 2008) *See full text version in Section I below*	(b)(2) the Contracting Officer
I.71	52.223-10	Waste Reduction Program (May 2011)	
I.72	52.223-12	Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016)	
I.73	52.223-13	Acquisition of EPEAT® – Registered Imaging Equipment (Jun 2014)	
I.74	52.223-14	Acquisition of EPEAT® – Registered Televisions (Jun 2014)	
I.75	52.223-15	Energy Efficiency in Energy-Consuming Products (Dec 2007)	
I.76	52.223-16	Acquisition of EPEAT®-Registered Personal Computer Products (Oct 2015)	
I.77	52.223-17	Affirmative Procurement of EPA-designated Items in Service and Construction Contracts (May 2008)	
I.78	52.223-18	Encouraging Contractors Policies to Ban Text Messaging While Driving (Aug 2011)	
I.79	52.223-19	Compliance with Environmental Management Systems (May 2011)	
I.80	52.224-1	Privacy Act Notification (Apr 1984)	
I.81	52.224-2	Privacy Act (Apr 1984)	
I.82	52.225-1	Buy American – Supplies (May 2014)	
I.83	52.225-13	Restrictions on Certain Foreign Purchases (Jun 2008)	
I.84	52.227-1	Authorization and Consent (Dec 2007)	
I.85	52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (Dec 2007)	
I.86	52.227-3	Patent Indemnity (Apr 1984)	
I.87	52.227-4	Patent Indemnity – Construction Contracts (Dec 2007)	
I.88	52.227-14	Rights in Data – General (May 2014) – Alt II (Dec 2007)	(g)(3) Purposes as set forth in 27.404-2(c)(1), and for Government business purposes (except for manufacture)
I.89	52.227-23	Rights to Proposal Data (Technical) (Jun 1987)	[OFFEROR Fill-In]
I.90	52.228-5	Insurance – Work on a Government Installation (Jan 1997) *Applies to firm-fixed-price task orders only*	
I.91	52.229-3	Federal, State, and Local Taxes (Feb 2013) *Applies to firm-fixed-price task orders only*	
I.92	52.230-2	Cost Accounting Standards (Oct 2015)	
I.93	52.230-6	Administration of Cost Accounting Standards (Jun 2010)	
I.94	52.232-1	Payment (Apr 1984) *Applies to firm-fixed-price task orders only*	
I.95	52.232-8	Discounts for Prompt Payment (Feb 2002) *Applies to firm-fixed-price task orders only*	
I.96	52.232-9	Limitation of Withholding of Payments (Apr 1984)	
I.97	52.232-11	Extras (Apr 1984) *Applies to firm-fixed-price task orders only*	
I.98	52.232-17	Interest (May 2014)	
I.99	52.232-18	Availability of Funds (Apr 1984)	

I.100	52.232-22	Limitation of Funds (Apr 1984)	
I.101	52.232-23	Assignment of Claims (May 2014)	
I.102	52.232232-25	Prompt Payment (Jul 2013) – Alt I (Feb 2002)	
I.103	52.232-33	Payment by Electronic Funds Transfer – System for Award Management (Jul 2013)	
I.104	52.232-39	Unenforceability of Unauthorized Obligations (Jun 2013)	
I.105	52.232-40	Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)	
I.106	52.233-1	Disputes (May 2014) – Alt I (Dec 1991)	
I.107	52.233-3	Protest after Award (Aug 1996) – Alt I (Jun 1985)	
I.108	52.233-4	Applicable Law for Breach of Contract Claim (Oct 2004)	
I.109	52.237-2	Protection of Government Buildings, Equipment, and Vegetation (Apr 1984)	
I.110	52.237-3	Continuity of Services (Jan 1991)	
I.111	52.242-1	Notice of Intent to Disallow Costs (Apr 1984)	
I.112	52.242-3	Penalties for Unallowable Costs (May 2014)	
I.113	52.242-4	Certification of Final Indirect Costs (Jan 1997)	
I.114	52.242-13	Bankruptcy (Jul 1995)	
I.115	52.243-2	Changes – Cost Reimbursement (Aug 1987) – Alt II (Apr 1984) and Alt III (Apr 1984) *(Application of the specific alternate will be dependent upon the circumstances of the change, as determined by the Contracting Officer)*	
I.116	52.244-2	Subcontracts (Oct 2010) – Alt I (Jun 2007)	(d) Any subcontract to replace any of the subcontracts noted in paragraph (j) of this clause as well as any subcontract equal to or greater than $1,000,000 (j) Contracting Officer fill-in at award
I.117	52.243-6	Change Order Accounting (Apr 1984)	
I.118	52.244-5	Competition in Subcontracting (Dec 1996)	
I.119	52.244-6	Subcontracts for Commercial Items (Jun 2016)	
I.120	52.245-1	Government Property (Apr 2012) As modified by DEAR 952.245-5 “and DOE Acquisition Regulation Subpart 945.5” after the reference to FAR Subpart 45.5 in paragraphs (e)(1) and (e)(2) of the clause.	
I.121	52.245-9	Use and Charges (Apr 2012)	
I.122	52.246-25	Limitation of Liability – Services (Feb 1997)	
I.123	52.247-67	Submission Of Transportation Documents For Audit (Feb 2006) *See full text version in Section I below*	
I.124	52.247-68	Report of Shipment (REPSHIP) (Feb 2006)	
I.125	52.248-1	Value Engineering (Oct 2010)	(m) Contracting Officer fill-in at award
I.126	52.248-3	Value Engineering – Construction (Oct 2015)	(i) Contracting Officer fill-in at award
I.127	52.249-6	Termination (Cost-Reimbursement) (May 2004) – Alt I (Sep 1996)	
I.128	52.249-8	Default (Fixed-Price Supply and Service) (Apr 1984) *Applies to firm-fixed-price task orders only*	
I.129	52.249-14	Excusable Delays (Apr 1984)	

I.130	52.251-1	Government Supply Sources (Apr 2012)	
I.131	52.251-2	Interagency Fleet Management System Vehicles and Related Services (Jan 1991)	
I.132	52.253-1	Computer Generated Forms (Jan 1991)	
I.133	952.202-1	Definitions (Feb 2011)	
I.134	952.203-70	Whistleblower Protection for Contractor Employees (Dec 2000)	
I.135	952.204-2	Security (Mar 2011)	
I.136	952.204-70	Classification/Declassification (Sep 1997)	
I.137	952.204-75	Public Affairs (Dec 2000)	
I.138	952.204-77	Computer Security (Aug 2006)	
I.139	952.208-7	Tagging of Leased Vehicles (Apr 1984)	
I.140	952.208-70	Printing (Apr 1984)	
I.141	952.209-72	Organizational Conflicts of Interest (Aug 2009) Alt I (Feb 2011)	(b)(1)(i) zero (0)
I.142	952.215-70	Key Personnel (Dec 2000)	(a) See Section H *Key Personnel*
I.143	952.216-7	Allowable Cost and Payment (Feb 2011)	
I.144	952.217-70	Acquisition of Real Property (Mar 2011)	
I.145	952.219-70	DOE Mentor-Protégé Program (May 2000)	
I.146	952.223-71	Integration of Environment, Safety, and Health into Work Planning and Execution (July 2009)	
I.147	952.223-72	Radiation Protection and Nuclear Criticality (Apr 1984)	
I.148	952.223-75	Preservation of Individual Occupational Radiation Exposure Records (Apr 1984)	
I.149	952.223-76	Conditional Payment of Fee or Profit – Safeguarding Restricted Data and Other Classified Information and Protection of Worker Safety and Health (Dec 2010)	(b)(2)(i) 12
I.150	952.223-78	Sustainable Acquisition Program (Oct 2010)	
I.151	952.225-71	Compliance with Export Control Laws and Regulations (Nov 2015)	
I.152	952.226-74	Displaced Employee Hiring Preference (Jun 1997)	
I.153	952.227-13	Patent Rights – Acquisition by the Government (Sep 1997), as modified by DEAR 927.303(c) to include the Facilities License paragraph as paragraph 952.227-13(n)	
I.154	952.227-82	Rights to Proposal Data (Apr 1994)	[Offeror Fill-In]
I.155	952.231-71	Insurance--Litigation and Claims (Jul 2013)	
I.156	952.242-70	Technical Direction (Dec 2000) *See full text version in Section I below*	
I.157	952.247-70	Foreign Travel (Jun 2010)	
I.158	952.250-70	Nuclear Hazards Indemnity Agreement (Jun 1996)	
I.159	952.251-70	Contractor Employee Travel Discounts (Aug 2009)	
I.160	970.5204-1	Counterintelligence (Dec 2010)	
I.161	970.5204-2	Laws, Regulations, and DOE Directives (Dec 2000)	
I.162	970.5204-3	Access To And Ownership Of Records (Oct 2014) *See full text version in Section I below*	
I.163	970.5217-1	Strategic Partnership Projects Program. (Apr 2015)	
I.164	970.5223--1	Integration of Environment, Safety, and Health into Work Planning and Execution. (Dec 2000)	
I.165	970.5223-4	Workplace Substance Abuse Programs at DOE Sites (Dec 2000)	
I.166	970.5223-6	Executive Order 13423, Strengthening Federal Environmental, Energy, and Transportation Management	

		(Oct 2010)	
I.167	970.5226-3	Community Commitment (Dec 2000)	
I.168	970.5227-1	Rights in Data – Facilities (Dec 2000)	
The following clauses apply to Construction work only			
I.169	52.216-7	Allowable Costs and Payment – Alt 1 (Feb 1997)	
I.170	52.222-6	Construction Wage Rate Requirements (May 2014)	
I.171	52.222-7	Withholding of Funds (May 2014)	
I.172	52.222-8	Payrolls and Basic Records (May 2014)	
I.173	52.222-9	Apprentices and Trainees (Jul 2005)	
I.174	52.222-10	Compliance with Copeland Act Requirements (Feb 1988)	
I.175	52.222-11	Subcontracts (Labor Standards) (May 2014)	
I.176	52.222-12	Contract Termination -- Debarment (May 2014)	
I.177	52.222-13	Compliance with Construction Wage Rate Requirements and Related Regulations (May 2014)	
I.178	52.222-14	Disputes Concerning Labor Standards (Feb 1988)	
I.179	52.222-15	Certification of Eligibility (May 2014)	
I.180	52.222-16	Approval of Wage Rates (May 2014)	
I.181	52.222-27	Action Compliance Requirements for Construction (Apr 2015)	
I.182	52.225-9	Buy American--Construction Materials (May 2014) *See full text version in Section I below*	(b)(2) None
I.183	52.225-11	Buy American--Construction Materials Under Trade Agreements (Feb 2016) Alt I (May 2014) *See full text version in Section I below*	(b)(3) None
I.184	52.227-4	Patent Indemnity -- Construction Contracts (Dec 2007)	
I.185	52.228-2	Additional Bond Security (Oct 1997)	
I.186	52.228-11	Pledges of Assets (Jan 2012)	
I.187	52.228-12	Prospective Subcontractor Requests for Bonds (May 2014)	
I.188	52.228-14	Irrevocable Letter of Credit (Nov 2014)	
I.189	52.228-15	Performance and Payment Bonds -- Construction (Oct 2010)	
I.190	52.232-5	Prompt Payment for Construction Contracts (May 2014)	
I.191	52.232-27	Prompt Payment for Construction Contracts (May 2014)	
I.192	52.236-1	Performance of Work by the Contractor (Apr 1984)	Seventy Percent (70%)
I.193	52.236-2	Differing Site Conditions (Apr 1984)	
I.194	52.236-3	Site Investigation and Conditions Affecting the Work (Apr 1984)	
I.195	52.236-5	Material and Workmanship (Apr 1984)	
I.196	52.236-6	Superintendence by the Contractor (Apr 1984)	
I.197	52.236-7	Permits and Responsibilities (Nov 1991)	
I.198	52.236-8	Other Contracts -- (Apr 1984)	
I.199	52.236-9	Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements (Apr 1984)	
I.200	52.236-10	Operations and Storage Areas (Apr 1984)	
I.201	52.236-11	Use and Possession Prior to Completion (Apr 1984)	
I.202	52.236-12	Cleaning Up (Apr 1984)	
I.203	52.236-13	Accident Prevention (Apr 1984)	
I.204	52.236-14	Availability and Use of Utility Services	
I.205	52.236-15	Schedules for Construction Contracts (Apr 1984)	
I.206	52.236-16	Quantity Surveys (Apr 1984)	
I.207	52.236-18	Work Oversight in Cost Reimbursement Construction	

		Contracts (Apr 1984)	
I.208	52.236-19	Organization and Direction of the Work (Apr 1984)	
I.209	52.236-21	Specifications and Drawings for Construction Alt I (Apr 1984)	
I.210	52.236-26	Preconstruction Conference (Feb 1995)	
I.211	52.242-14	Suspension of Work (Apr 1984)	
I.212	52.243-1	Changes -- Fixed Price (Aug 1987) Alt I (Apr 1984) Alt II (Apr 1984) *Applies to firm-fixed-price task orders only*	
I.213	52.243-4	Changes (Jun 2007)	
I.214	52.246-12	Inspection of Construction (Aug. 1996)	
I.215	52.246-13	Inspection -- Dismantling, Demolition, or Removal of Improvements (Aug. 1996)	
I.216	52.249-2	Termination for Convenience of the Government (Fixed-Price) Alt I (Sep 1996) *Applies to firm-fixed-price task orders only*	
I.217	52.249-10	Default (Fixed-Price Construction) (Apr 1984)	

**Note: Any of the above referenced construction clauses that require a fill-in will be identified post-award as construction is initiated.
This Contract incorporates one or more clauses by reference as indicated in the matrix above.

Any clauses that are included in full text are listed below and include the same Section I identifier in parentheses as was used above.

(I.37) FAR 52.216-18, ORDERING (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the contract effective date through the end of contract performance.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

(I.38) FAR 52.216-19, ORDER LIMITATIONS (OCT 1995)

(a) *Minimum order*. When the Government requires supplies or services covered by this contract in an amount of less than $1,000, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) *Maximum order*. The Contractor is not obligated to honor --

(1) Any order for a single item in excess of $112,000,000;

(2) Any order for a combination of items in excess of $112,000,000; or

(3) A series of orders from the same ordering office within 365 days that together call for quantities exceeding the limitation in subparagraph (b)(1) or (2) of this section.

(c) If this is a requirements contract (*i.e.*, includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) of this section.

(d) Notwithstanding paragraphs (b) and (c) of this section, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 5 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(I.39) FAR 52.216-22 INDEFINITE QUANTITY (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum." The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 12 months beyond the expiration date of the contract period.

(I.41) FAR 52.217-9 -- OPTION TO EXTEND THE TERM OF THE CONTRACT (Mar 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor within any time period prior to the expiration of the contract: provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least 30 calendar days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 10 years.

(I.60) FAR 52.222-42, STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 2014)

In compliance with the Service Contract Labor Standards statute and the regulations of the Secretary of Labor (29 CFR part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

This Statement is for Information Only: It is not a Wage Determination

Employee	**Class**	**Monetary Wage***
Administrative Assistant	GS-7	19.18
Clerk	GS-4	13.84
Maintenance Scheduler	GS-4	13.84
Secretary	GS-6	17.26
Computer Operator	GS-8	21.24
Engineering Technician	GS-7	19.18
Lab Technician	GS-6	17.26
Environmental Technician	GS-7	19.18
Carpenter	WG-9	22.39
Electrician	WG-10	23.58
Pipefitter	WG-10	23.58
Painter	WG-9	22.39
Laborer	WG-3	14.93
Heavy Equipment Operator	WG-10	23.58
HVAC Technician	WG-10	23.58
Janitor	WG-2	13.53
Fort Lift Operator	WG-5	17.66
Shipping/Receiving	WG-4	16.36
Well Driller	WG-10	23.58

Boiler Operator	WG-10	23.58
Water Treatment Operator	WG-9	22.39
Truck Driver	WG-8	21.29

*No Collective Bargaining Agreement (CBA) covered positions are listed in the above. chart.

FRINGE BENEFITS

Annual Leave - Receives 13 days paid leave for service up to 3 years; 20 days for 3 to 15 years service; and 26 days for 15 years service or over.

Sick Leave - Receives 13 days paid leave per year.

Holidays - Receives 10 paid holidays per year.

Health Insurance - Government pays up to 72% of health insurance.

Group Life Insurance - Government pays one-third of the cost of the basic life insurance premium.

Retirement - The Government provides three retirement plans identified as the Civil Service Retirement System (CSRS), the Federal Employees Retirement System (FERS), and the CSRS Offset. Under the CSRS, the Government contributes 7% of the employees' base pay towards the retirement benefit and 1.45% towards Medicare. Under the FERS, the Government contributes 11.2% of the employees' base pay towards a basic benefit plan, 6.2% to Social Security, 1.45% towards Medicare, and 1% (plus matching contributions of up to 4% of basic pay, depending on employees' contributions) to a thrift savings plan. Under the CSRS Offset, the Government contributes 0.8% of the employees' base pay towards the retirement benefit, 6.2% to Social Security, and 1.45% towards Medicare.

Part-time Federal employees receive pro rata annual leave, sick leave, holiday leave, health insurance, and group life insurance benefits based on the number of hours worked.

(I.69) FAR 52.223-7, NOTICE OF RADIOACTIVE MATERIALS (JAN 1997)

(a) The Contractor shall notify the Contracting Officer or designee, in writing, 60 days prior to the delivery of, or prior to completion of any servicing required by this contract of, items containing either (1) radioactive material requiring specific licensing under the regulations issued pursuant to the Atomic Energy Act of 1954, as amended, as set forth in Title 10 of the Code of Federal Regulations, in effect on the date of this contract, or (2) other radioactive material not requiring specific licensing in which the specific activity is greater than 0.002 microcuries per gram or the activity per item equals or exceeds 0.01 microcuries. Such notice shall specify the part or parts of the items which contain radioactive materials, a description of the materials, the name and activity of the isotope, the manufacturer of the materials, and any other information known to the

Contractor which will put users of the items on notice as to the hazards involved (OMB No. 9000-0107).

* The Contracting Officer shall insert the number of days required in advance of delivery of the item or completion of the servicing to assure that required licenses are obtained and appropriate personnel are notified to institute any necessary safety and health precautions. See FAR 23.601(d).

(b) If there has been no change affecting the quantity of activity, or the characteristics and composition of the radioactive material from deliveries under this contract or prior contracts, the Contractor may request that the Contracting Officer or designee waive the notice requirement in paragraph (a) of this clause. Any such request shall-

(1) Be submitted in writing;

(2) State that the quantity of activity, characteristics, and composition of the radioactive material have not changed; and

(3) Cite the contract number on which the prior notification was submitted and the contracting office to which it was submitted.

(c) All items, parts, or subassemblies which contain radioactive materials in which the specific activity is greater than 0.002 microcuries per gram or activity per item equals or exceeds 0.01 microcuries, and all containers in which such items, parts or subassemblies are delivered to the Government shall be clearly marked and labeled as required by the latest revision of MIL-STD 129 in effect on the date of the contract.

(d) This clause, including this paragraph (d), shall be inserted in all subcontracts for radioactive materials meeting the criteria in paragraph (a) of this clause.

(I.70) FAR 52.223-9, ESTIMATE OF PERCENTAGE OF RECOVERED MATERIAL CONTENT FOR EPA-DESIGNATED ITEMS (MAY 2008)

(a) *Definitions*. As used in this clause—

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material."

"Recovered material" means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

(b) The Contractor, on completion of this contract, shall—

(1) Estimate the percentage of the total recovered material content for EPA designated item(s) delivered and/or used in contract performance, including, if applicable, the percentage of post-consumer material content; and

(2) Submit this estimate to the Contracting Officer.

(I.123) FAR 52.247-67, SUBMISSION OF TRANSPORTATION DOCUMENTS FOR AUDIT (FEB 2006)

(a) The Contractor shall submit to the address identified below, for prepayment audit, transportation documents on which the United States will assume freight charges that were paid –

(1) By the Contractor under a cost-reimbursement contract; and

(2) By a first-tier subcontractor under a cost-reimbursement subcontract thereunder.

(b) Cost-reimbursement Contractors shall only submit for audit those bills of lading with freight shipment charges exceeding $100. Bills under $100 shall be retained on-site by the Contractor and made available for on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.

(c) Contractors shall submit the above referenced transportation documents to—

_____

_____

_____

[To be filled in by Contracting Officer]

(I.156) DEAR 952.242-70, TECHNICAL DIRECTION (DEC 2000)

(a) Performance of the work under this contract shall be subject to the technical direction of the DOE Contracting Officer’s Representative (COR). The term "technical direction" is defined to include, without limitation:

(1) Providing direction to the Contractor that redirects contract effort, shifts work emphasis between work areas or tasks, requires pursuit of certain lines of inquiry, fills in details, or otherwise serves to accomplish the contractual SOW.

(2) Providing written information to the Contractor that assists in interpreting drawings, specifications, or technical portions of the work description.

(3) Reviewing and, where required by the contract, approving, technical reports, drawings, specifications, and technical information to be delivered by the Contractor to the DOE.

(b) The Contractor will receive a copy of the written COR designation from the CO. It will specify the extent of the COR's authority to act on behalf of the CO.

(c) Technical direction must be within the scope of work stated in the contract. The COR does not have the authority to, and may not, issue any technical direction that:

(1) Constitutes an assignment of additional work outside the SOW;

(2) Constitutes a change as defined in the contract clause entitled "Changes;"

(3) Changes contract cost, the fee (if any), or the time required for contract performance;

(4) Changes any of the expressed terms, conditions or specifications of the contract; or

(5) Interferes with the Contractor's right to perform to the terms and conditions of the contract.

(d) All technical direction shall be issued in writing by the COR.

(e) The Contractor must proceed promptly with the performance of technical direction duly issued by the COR in the manner prescribed by this clause and within its authority under the provisions of this clause. If, in the opinion of the Contractor, any instruction or direction by the COR falls within one of the categories defined in (c)(1) through (c)(5) of this clause, the Contractor must not proceed and must notify the CO in writing within five working days after receipt of any such instruction or direction and must request the CO to modify the contract accordingly. Upon receiving the notification from the Contractor, the CO must:

(1) Advise the Contractor in writing within 30 days after receipt of the Contractor's letter that the technical direction is within the scope of the contract effort and does not constitute a change under the Changes clause of the contract;

(2) Advise the Contractor in writing within a reasonable time that the DOE will issue a written change order; or

(3) Advise the Contractor in writing within a reasonable time not to proceed with the instruction or direction of the COR.

(f) A failure of the Contractor and CO either to agree that the technical direction is within the scope of the contract or to agree upon the contract action to be taken with respect the technical direction will be subject to the provisions of the clause in Section I, 52.233-1 "Disputes."

(I.162) DEAR 970.5204-3, ACCESS TO AND OWNERSHIP OF RECORDS (OCT 2014)

(a) *Government-owned records.* Except as provided in paragraph (b) of this clause, all records acquired or generated by the contractor in its performance of this contract, including records series described within the contract as Privacy Act systems of records, shall be the property of the Government and shall be maintained in accordance with 36 CFR, Chapter XII, Subchapter B, ‘‘Records Management.’’ The contractor shall ensure records classified as Privacy Act system of records are maintained in accordance with FAR 52.224.2 ‘‘Privacy Act.’’

(b) *Contractor-owned records.* The following records are considered the property of the contractor and are not within the scope of paragraph (a) of this clause.

(1) Employment-related records (such as worker’s compensation files; employee relations records, records on salary and employee benefits; drug testing records, labor negotiation records; records on ethics, employee concerns; records generated during the course of responding to allegations of research misconduct; records generated during other employee related investigations conducted under an expectation of confidentiality; employee assistance program records; and personnel and medical/health related records and similar files), and nonemployee patient medical/health-related records, excluding records operated and maintained by the Contractor in Privacy Act system of records. Employee-related systems of record may include, but are not limited to: Employee Relations Records (DOE–3), Personnel Records of Former Contractor Employees (DOE–5), Payroll and Leave Records (DOE–13), Report of Compensation (DOE–14), Personnel Medical Records (DOE–33), Employee Assistance Program (EAP) Records (DOE–34) and Personnel Radiation Exposure Records (DOE–35).

(2) Confidential contractor financial information, internal corporate governance records and correspondence between the contractor and other segments of the contractor located away from the DOE facility (i.e., the contractor’s corporate headquarters);

(3) Records relating to any procurement action by the contractor, except for records that under 48 CFR 970.5232–3 are described as the property of the Government; and

(4) Legal records, including legal opinions, litigation files, and documents covered by the attorney-client and attorney work product privileges; and

(5) The following categories of records maintained pursuant to the technology transfer clause of this contract:

(i) Executed license agreements, including exhibits or appendices containing information on royalties, royalty rates, other financial information, or commercialization plans, and all related documents, notes and correspondence.

(ii) The contractor's protected Cooperative Research and Development Agreement (CRADA) information and appendices to a CRADA that contain licensing terms and conditions, or royalty or royalty rate information.

(iii) Patent, copyright, mask work, and trademark application files and related contractor invention disclosures, documents and correspondence, where the contractor has elected rights or has permission to assert rights and has not relinquished such rights or turned such rights over to the Government.

(c) *Contract completion or termination.* Upon contract completion or termination, the contractor shall ensure final disposition of all Government-owned records to a Federal Record Center, the National Archives and Records Administration, to a successor contractor, its designee, or other destinations, as directed by the Contracting Officer. Upon the request of the Government, the contractor shall provide either the original contractor-owned records or copies of the records identified in paragraph (b) of this clause, to DOE or its designees, including successor contractors. Upon delivery, title to such records shall vest in DOE or its designees, and such records shall be protected in accordance with applicable federal laws (including the Privacy Act) as appropriate. If the contractor chooses to provide its original contractor-owned records to the Government or its designee, the contractor shall retain future rights to access and copy such records as needed.

(e) *Applicability.* This clause applies to all records created, received and maintained by the contractor without regard to the date or origination of such records including all records acquired from a predecessor contractor.

(f) *Records maintenance and retention.* Contractor shall create, maintain, safeguard, and disposition records in accordance with 36 CFR Chapter XII, Subchapter B, ''Records Management'' and the National Archives and Records Administration (NARA)-approved Records Disposition Schedules. Records retention standards are applicable for all classes of records, whether or not the records are owned by the Government or the contractor. The Government may waive application of the NARA-approved Records Disposition Schedules, if, upon termination or completion of the contract, the Government exercises its right under paragraph (c) of this clause to obtain copies of records described in paragraph (b) and delivery of records described in paragraph (a) of this clause.

(g) *Subcontracts.* The contractor shall include the requirements of this clause in all subcontracts that contain the *Integration of Environment, Safety and Health into Work*

Planning and Execution clause at 952.223–71 or, the *Radiation Protection and Nuclear Criticality* clause at 952.223–72.

(I.182) 52.225-9 Buy American–Construction Materials (May 2014)

(a) *Definitions*. As used in this clause--

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

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(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.

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph

(1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

"Domestic construction material" means—

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if—

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

"Foreign construction material" means a construction material other than a domestic construction material.

"United States" means the 50 States, the District of Columbia, and outlying areas.

(b) *Domestic preference.*

(1) This clause implements the 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.505(a)(2)). The Contractor shall use only domestic construction material in performing this contract, except as provided in paragraphs (b)(2) and (b)(3) of this clause.

(2) This requirement does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows: _____ [*Contracting Officer to list applicable excepted materials or indicate "none"*]

(3) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(2) of this clause if the Government determines that

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the requirements of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) *Request for determination of inapplicability of the Buy American statute.*

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(3) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract

award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(3)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) *
Item 1			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

[*List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.*]

[*Include other applicable supporting information.*]

[**Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]*

I.183 52.225-11 Buy American—Construction Materials Under Trade Agreements (Feb 2016) Alt I (May 2014)

(a) *Definitions.* As used in this clause--

"Caribbean Basin country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

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

(1) Means any item of supply (including construction material) that is—

(i) A commercial item (as defined in paragraph (1) of the definition at FAR 2.101);

(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.

"Component" means an article, material, or supply incorporated directly into a construction material.

"Construction material" means an article, material, or supply brought to the construction site by the Contractor or subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

"Cost of components" means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the construction material (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph

(1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

"Designated country" means any of the following countries:

(1) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Armenia, Aruba, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark. Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan, or United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Korea (Republic of), Mexico, Morocco, Nicaragua, Oman, Panama, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Tanzania, Timor-Leste, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bonaire, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saba, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Sint Eustatius, Sint Maarten, or Trinidad and Tobago).

"Designated country construction material" means a construction material that is a WTO GPA country construction material, an FTA country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

"Domestic construction material" means—

(1) An unmanufactured construction material mined or produced in the United States;

(2) A construction material manufactured in the United States, if—

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic: or

(ii) The construction material is a COTS item.

"Free Trade Agreement country construction material means" a construction material that--

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a FTA country into a new and different construction material distinct from the materials from which it was transformed.

"Foreign construction material" means a construction material other than a domestic construction material.

"Least developed country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"WTO GPA country construction material" means a construction material that--

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials*.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item. (See FAR 12.50-5(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements (FTAs) apply to this acquisition. Therefore, the Buy American restrictions are waived for designated country construction materials.

(2) The Contractor shall use only domestic or designated country construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.

(3) The requirement in paragraph (b)(2) of this clause does not apply to information technology that is a commercial item or to the construction materials or components listed by the Government as follows:_____ [*Contracting Officer to list applicable excepted materials or indicate "none"*]

(4) The Contracting Officer may add other foreign construction material to the list in paragraph (b)(3) of this clause if the Government determines that--

(i) The cost of domestic construction material would be unreasonable. The cost of a particular domestic construction material subject to the restrictions of the Buy American statute is unreasonable when the cost of such material exceeds the cost of foreign material by more than 6 percent;

(ii) The application of the restriction of the Buy American statute to a particular construction material would be impracticable or inconsistent with the public interest; or

(iii) The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality.

(c) Request for determination of inapplicability of the Buy American Statute.

(1)

(i) Any Contractor request to use foreign construction material in accordance with paragraph (b)(4) of this clause shall include adequate information for Government evaluation of the request, including--

(A) A description of the foreign and domestic construction materials;

(B) Unit of measure;

(C) Quantity;

(D) Price;

(E) Time of delivery or availability;

(F) Location of the construction project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign construction materials cited in accordance with paragraph (b)(3) of this clause.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed price comparison table in the format in paragraph (d) of this clause.

(iii) The price of construction material shall include all delivery costs to the construction site and any applicable duty (whether or not a duty-free certificate may be issued).

(iv) Any Contractor request for a determination submitted after contract award shall explain why the Contractor could not reasonably foresee the need for such determination and could not have requested the determination before contract award. If the Contractor does not submit a satisfactory explanation, the Contracting Officer need not make a determination.

(2) If the Government determines after contract award that an exception to the Buy American statute applies and the Contracting Officer and the Contractor negotiate adequate consideration, the Contracting Officer will modify the contract to allow use of the foreign construction material. However, when the basis for the exception is the unreasonable price of a domestic construction material, adequate consideration is not less than the differential established in paragraph (b)(4)(i) of this clause.

(3) Unless the Government determines that an exception to the Buy American statute applies, use of foreign construction material is noncompliant with the Buy American statute.

(d) *Data.* To permit evaluation of requests under paragraph (c) of this clause based on unreasonable cost, the Contractor shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Construction Materials Price Comparison

Construction material description	Unit of measure	Quantity	Price (dollars) *
Item 1			
Foreign construction material			
Domestic construction material			
Item 2			
Foreign construction material			
Domestic construction material			

[*List name, address, telephone number, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.*]

[*Include other applicable supporting information.*]

[* *Include all delivery costs to the construction site and any applicable duty (whether or not a duty-free entry certificate is issued).]*

(End of clause)

Alternate I (May 2014). As prescribed in 25.1102 (c)(3), add the following definition of "Bahrainian or Mexican construction material" to paragraph (a) of the basic clause, and substitute the following paragraphs (b)(1) and (b)(2) for paragraphs (b)(1) and (b)(2) of the basic clause:

"Bahrainian, Mexican, or Omani construction material" means a construction material that—

(1) . Is wholly the growth, product, or manufacture of Bahrain or Mexico; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain or Mexico into a new and different construction material distinct from the materials from which it was transformed.

(b) *Construction materials*.

(1) This clause implements 41 U.S.C. chapter 83, Buy American, by providing a preference for domestic construction material. In accordance with 41 U.S.C. 1907, the component test of the Buy American statute is waived for construction material that is a COTS item (See FAR 12.505(a)(2)). In addition, the Contracting Officer has determined that the WTO GPA and all the Free Trade Agreements except the Bahrain FTA, NAFTA, and the Oman FTA apply to the this acquisition. Therefore, the Buy American statute restrictions are waived for designated country construction materials other than Bahrainian, Mexican, or Omani construction materials.

(2) The Contractor shall use only domestic, or designated country construction material other than Bahrainian, Mexican, or Omani construction material in performing this contract, except as provided in paragraphs (b)(3) and (b)(4) of this clause.