

## Solicitation Provisions & Clauses:

(full text at [www.acquisition.gov/far/part-52](http://www.acquisition.gov/far/part-52) )

- FAR 52.203-18 – Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements—Representation (Jan 2017)
- FAR 52.204-7 – System for Award Management (Oct 2018)
- FAR 52.204-13 – System for Award Management Maintenance (Oct 2018)
- FAR 52.204-16 – Commercial and Government Entity Code Reporting (Aug 2020)
- FAR 52.204-17 – Ownership or Control of Offeror (Aug 2020)
- FAR 52.204-18 – Commercial and Government Entity Code Maintenance (Aug 2020)
- FAR 52.204-19 – Incorporation by Reference of Representations and Certifications (Dec 2014)
- FAR 52.204-20 – Predecessor of Offeror (Aug 2020)
- FAR 52.204-21 – Basic Safeguarding of Covered Contractor Information Systems (Nov 2021)
- FAR 52.204-24 – Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Nov 2021)
- FAR 52.204-26 – Covered Telecommunications Equipment or Services-Representation (Oct 2020)
- FAR 52.209-2 – Prohibition on Contracting with Inverted Domestic Corporations-Representation (Nov 2015)
- FAR 52.209-11 – Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (Feb 2016)
- FAR 52.212-4 – Contract Terms & Conditions – Commercial Products and Commercial Services (Dec 2022)
- FAR 52.212-5 – Contract Terms and Conditions Required to Implement Statutes or Executive Orders- Commercial Products and Commercial Services (June 2023)
- FAR 52.217-5 – Evaluation of Options (Jul 1990)
- FAR 52.217-8 – Option to Extend Services (Nov 1999)
- FAR 52.217-9 – Option to Extend the Term of the Contract (Mar 2000)
- FAR 52.224-1 – Privacy Act Notification (Apr 1984)
- FAR 52.224-2 – Privacy Act (Apr 1984)
- FAR 52.225-25 – Prohibition on Contracting With Entities Engaging in Certain Activities or Transactions Relating to Iran—Representation and Certifications (Jun 2020)
- FAR 52.232-39 – Unenforceability of Unauthorized Obligations (Jun 2013)
- FAR 52.232-40 – Providing Accelerated Payments to Small Business Subcontractors (March 2023)
- DT1052.210-70 – Contractor Publicity (Apr 2015)
- IR1052.209-9002 – Notice and Consent to Disclose and Use of Taxpayer Return Information (May 2018)
- IR1052.232-9001 – Electronic Invoicing and Payment Requirements for the Invoice Processing Platform (IPP) (Jul 2019)
- FAR 52.204-27 -Prohibition on a ByteDance Covered Application.

**Please complete and/or sign pages 1 – 8 and submit with your quote (including the "is"/"is not", etc selections)**

**\*\*NOTE:** On the IR1052.209-9002 on page 7, all of the fill-in information will be your company name, your name or the person within your company who we may speak with regarding tax matters, if needed. ***This will not be "IRS", my name or any other IRS employee's name.***

**Please complete & sign below to acknowledge receipt of the Provisions / Clauses:**

\_\_\_\_\_  
**Company Name and Contractor Printed Name**

\_\_\_\_\_  
**Contractor Signature and Date**

## **52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment. (Nov 2021)**

As prescribed in [4.2105\(a\)](#), insert the following provision:

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26](#), Covered Telecommunications Equipment or Services—Representation, or in paragraph (v)(2)(i) of the provision at [52.212-3](#), Offeror Representations and Certifications-Commercial Products or Commercial Services. The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).

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

*Backhaul, covered telecommunications equipment or services, critical technology, interconnection arrangements, reasonable inquiry, roaming, and substantial or essential component* have the meanings provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Prohibition.* (1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract or extending or renewing a contract with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract. Nothing in the prohibition shall be construed to—

(i) Prohibit the head of an executive agency from procuring with an entity to provide a service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Cover telecommunications equipment that cannot route or redirect user data traffic or cannot permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(c) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(d) *Representation.* The Offeror represents that—

(1) It ☐ **will**, ☐ **will not** provide covered telecommunications equipment or services to the Government in the performance of any contract, subcontract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (e)(1) of this section if the Offeror responds "will" in paragraph (d)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

It ☐ **does**, ☐ **does not** use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (e)(2) of this section if the Offeror responds "does" in paragraph (d)(2) of this section.

(e) *Disclosures.*

(1) Disclosure for the representation in paragraph (d)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (d)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(End of provision)

#### **52.204-26 Covered Telecommunications Equipment or Services-Representation. (Oct 2020)**

(a) *Definitions.* As used in this provision, "covered telecommunications equipment or services" and "reasonable inquiry" have the meaning provided in the clause [52.204-25](#), Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment.

(b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c)

(1) *Representation.* The Offeror represents that it ☐ **does**, ☐ **does not** provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument.

(2) After conducting a reasonable inquiry for purposes of this representation, the offeror represents that it ☐ **does**, ☐ **does not** use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services.

(End of provision)

## **52.209-2 Prohibition on Contracting with Inverted Domestic Corporations-Representation (Nov 2015)**

- (a) *Definitions.* “Inverted domestic corporation” and “subsidiary” have the meaning given in the clause of this contract entitled Prohibition on Contracting with Inverted Domestic Corporations (52.209-10).
- (b) Government agencies are not permitted to use appropriated (or otherwise made available) funds for contracts with either an inverted domestic corporation, or a subsidiary of an inverted domestic corporation, unless the exception at 9.108-2(b) applies or the requirement is waived in accordance with the procedures at 9.108-4.
- (c) *Representation.* The Offeror represents that-
- (1) It ☐ **is**, ☐ **is not** an inverted domestic corporation; and
  - (2) It ☐ **is**, ☐ **is not** a subsidiary of an inverted domestic corporation.

(End of provision)

## **52.209-11 Representation by Corporations Regarding Delinquent Tax Liability or A Felony Conviction Under Any Federal Law (Feb 2016)**

- (a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235), and similar provisions, if contained in subsequent appropriations acts, the Government will not enter into a contract with any corporation that—
- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or
  - (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.
- (b) The Offeror represents that—
- (1) It **is** ☐ / **is not** ☐ a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
  - (2) It **is** ☐ / **is not** ☐ a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(End of provision)

**IR1052.209-9002 Notice and Consent to Disclose and Use of Taxpayer Return  
Information (May 2018)**

(a) Definitions. As used in this provision-

"Authorized representative(s) of the offeror" means the person(s) identified to the Internal Revenue Service (IRS) within the consent to disclose by the offeror as authorized to represent the offeror in disclosure matters pertaining to the offer.

"Delinquent Federal tax liability" means any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

"Tax check" means an IRS process that accesses and uses taxpayer return information to support the Government's determination of an offeror's eligibility to receive an award, including but not limited to implementation of the statutory prohibition of making an award to corporations that have an unpaid Federal tax liability (see FAR 9.104-5(b)).

(b) Notice. Pursuant to 26 U.S.C. 6103(a) taxpayer return information, with few exceptions, is confidential. Under the authority of 26 U.S.C. 6103(h)(1), officers and employees of the Department of the Treasury, including the IRS, may have access to taxpayer return information as necessary for purposes of tax administration. The Department of the Treasury has determined that an IRS contractor's compliance with the tax laws is a tax administration matter and that the access to and use of taxpayer return information is needed for determining an offeror's eligibility to receive an award, including but not limited to implementation of the statutory prohibition of making an award to corporations that have an unpaid Federal tax liability (see FAR 9.104-5).

(1) The performance of a tax check is one means that will be used for determining an offeror's eligibility to receive an award in response to this solicitation (see FAR 9.104). As a result, the offeror may want to take steps to confirm it does not have a delinquent Federal tax liability prior to submission of its response to this solicitation. If the offeror recently settled a delinquent Federal tax liability, the offeror may want to take steps to obtain information in order to demonstrate the offeror's responsibility to the contracting officer (see FAR 9.104-5).

(c) The offeror shall execute the consent to disclosure provided in paragraph (d) of this provision and include it with the submission of its offer. The consent to disclosure shall be signed by an authorized person as required and defined in 26 U.S.C. 6103(c) and 26 CFR 301.6103(c)-1(e)(4).

(d) Consent to disclosure. I hereby consent to the disclosure of taxpayer return information (as defined in 26 U.S.C. 6103(b)(2)) as follows:

The Department of the Treasury, Internal Revenue Service, may disclose the results of the tax check conducted in connection with the offeror's response to this solicitation, including taxpayer return information as necessary to resolve any matters pertaining to the results of the tax check, to the authorized representatives of \_\_\_\_\_ on this offer.

I am aware that in the absence of this authorization, the taxpayers return information of \_\_\_\_\_ is confidential and may not be disclosed, which subsequently may remove the offer from eligibility to receive an award under this solicitation.

**PERSON(S) NAME AND CONTACT INFORMATION**

I consent to disclosure of taxpayer return information to the following person(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I certify that I have the authority to execute this consent on behalf of:**

**Offeror Name:** \_\_\_\_\_

**Offeror Taxpayer Identification Number:** \_\_\_\_\_

**Offeror Address:** \_\_\_\_\_  
\_\_\_\_\_

**Name of Individual Executing Consent:** \_\_\_\_\_

**Title of Individual Executing Consent:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(End of provision)

**IR1052.232-9001 ELECTRONIC INVOICING AND PAYMENT REQUIREMENTS FOR THE INVOICE  
PROCESSING PLATFORM (IPP) (JUL 2019)**

(a) Definitions:

"Short payment" as used in this clause means the partial payment of an invoice for goods/services actually rendered at the time of payment when the invoice includes additional goods/services that have not yet been provided/rendered.

"Short payment" example: The contract requires the delivery of a set number of items, with the price, delivery location, and delivery due date also specified. The vendor delivers 50% of the items as specified but invoices for 100% of the items. Before implementation of the IPP, the IRS would have paid the vendor for the items delivered and instructed the vendor to re-invoice the IRS when the balances of the items were delivered. In other words, the IRS would "short pay" the invoice since the IRS did not remit payment for the full invoice amount. With implementation of the IPP, the IRS can no longer do this because the IRS cannot accept an electronic invoice that includes items not yet received. The IRS will reject the invoice. The vendor needs to submit an invoice for only the items received by the IRS (in this case, 50%), and, if these items meet all other contract terms and conditions, the IRS will pay the invoiced amount. The vendor submits subsequent invoice(s) for items as they are delivered and accepted.

(b) The Invoice Processing Platform (IPP) is a secure Web-based electronic invoicing and payment information service available to all Federal agencies and their suppliers. Effective October 1, 2012, invoicing for payment through the IPP will be mandatory for all new contract awards. Additional information regarding the IPP may be found at the IPP website address <https://www.ipp.gov>. Contractors must complete the contractor point of contact information below, and submit it with their proposal submissions. Contractors may contact the IPP Helpdesk for assistance via e-mail [ippgroup@stls.frb.org](mailto:ippgroup@stls.frb.org) or via phone at (866) 973-3131. Once a contract award has been made, the contractor will be contacted by the IPP via e-mail to set-up an account. It will be necessary for contractors to login to their IPP accounts every 90 days to keep their IPP accounts active.

**(c) Contractor Point of Contact Information**

**Contractor (Company) Name:** \_\_\_\_\_

**Contractor IPP Point of Contact Name:** \_\_\_\_\_

**Contractor Phone Number:** \_\_\_\_\_

**Contractor E-mail Address:** \_\_\_\_\_

(d) Electronic Invoicing and Payment Requirements

Vendor invoices submitted electronically through the IPP should be in the proper format and contain the information required for payment processing. To be approved for payment, a "proper invoice" must list the items specified in FAR 52.232-25 (a)(3)(i) through (a)(3)(x), or in the case of a Commercial Item Contract, the items included in 52.212-4(g)(1)(i) through (g)(1)(x). **If the vendor is offering a discount via the IPP, the discount must be reflected on the invoice. The vendor will select 'Create Invoice'. The IPP system will default to 'Net 30 Prompt Pay' under the Payment Terms dropdown box. The vendor will select from 54 different discount options for the invoice that is being created. If the vendor chooses to offer a discount on the invoice screen, the information will interface to the payment system for processing. Discounts that are offered on attachments rather than the invoice itself cannot be accepted.**



Under this contract, the following documents are required to be submitted as an attachment to the invoice (Contracting Officer fills in additional documentation that must be furnished by the contractor (e.g. timesheet)). **Please do not submit into IPP any documentation/attachments that conflict with what is stated on the invoice.**

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#### Payment and Invoice Questions

For payment and invoice questions, contact the Beckley Finance Center at (304) 254-3372 or via e-mail at [cfo.fm.ipp.customer.support@irs.gov](mailto:cfo.fm.ipp.customer.support@irs.gov).

#### (e) Waiver

If the Contractor is unable to use the IPP for submitting payment requests starting on October 1, 2012, then a waiver form must be completed and submitted with the contractor's proposal submission for review and approval by the Contracting Officer based on one of the conditions listed in the waiver. The vendor will be notified prior to award as to whether their request for waiver has been approved or denied. If the waiver is granted, then a copy of the waiver must be submitted with each paper invoice that the vendor submits to the payment office or the invoice will be returned.

#### (f) Short Payment

Short payment on vendor submitted invoices will no longer be processed or paid. If any portion of the invoice does not meet the requirements for a proper invoice, the entire invoice shall be rejected and returned to the vendor unpaid.

### **IRS Invoice Processing Platform (IPP) Waiver Form**

The IRS invoicing and payment requirements clause (IR1052.232-9001) requires that all invoices under awards made (or effective) on or after October 1, 2012, be submitted electronically via the IPP unless a waiver is requested and granted. If the Contractor is unable to submit its invoice through the IPP, the Contractor shall complete this waiver form indicating the reason for the waiver request by selecting the appropriate box below and providing a narrative summarizing in detail the circumstances requiring a waiver.

For a solicitation, submit the waiver form with the proposal submission. For a modification that incorporates the IPP clause into an existing contract, submit the waiver form with the modification. The CO will notify the vendor via e-mail or another appropriate means of communication prior to award as to whether their waiver has been approved or denied. If the waiver is granted, then a copy of the approved waiver must be submitted with each invoice that the vendor submits to the payment office or the invoice will be returned.

Reason for requesting a waiver of the requirement to submit an electronic invoice via the IPP:

- ☐ a. Submission of invoices through IPP would impose a hardship on an individual (includes employees and sole proprietors) due to: either a physical or mental disability; a geographic, language, or literacy barrier; or an undue financial burden. The requirement to submit invoices through the IPP is automatically waived for all individuals who do not have payment capability using ACH with a U.S. financial institution.
- ☐ b. The political, financial or communications infrastructure where the place of business is located does not support access to the IPP for submitting invoices electronically.
- ☐ c. The contractor is located within an area designated by the President of the United States or an authorized agency administration as a disaster area. (Please identify area/location.)
- ☐ d. The submission of invoices electronically may pose a threat to national security, the life or physical safety of an individual may be endangered, or a law enforcement action may be compromised.
- ☐ e. The agency does not expect to receive more than one invoice from the same contractor within a one- year period. i.e., the invoice submission is non-recurring.
- ☐ f. The contractor customarily submits a high volume of invoices on a regular basis via file format, not currently supported by the IPP (i.e., uses a file format other than XML or CSV) and the high volume of invoices would cause a significant burden to the contractor if submitted through the IPP individually. If utilizing this exception, please identify the file formats supported by your invoicing system so that the IPP may consider implementing the requested file format at a later date. File format(s) used: \_\_\_\_\_.
- ☐ g. Other - Please explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attach a separate sheet of paper with a summary narrative substantiating the circumstances for the waiver exception selected from above (1 through 7).

**Waiver Submitted By:**

\_\_\_\_\_  
Contractor Name

\_\_\_\_\_  
Name of Person Submitting Request for Waiver

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature of Person Submitting Request for Waiver

\_\_\_\_\_  
E-mail Address

\_\_\_\_\_  
Phone No.

\_\_\_\_\_  
Contract/Order No.

\_\_\_\_\_  
Date Submitted

**Waiver Approved By:**

\_\_\_\_\_  
Contracting Officer's Name Printed

\_\_\_\_\_  
Contracting Officer's Signature

\_\_\_\_\_  
Date

## 52.204-21 Basic Safeguarding of Covered Contractor Info Systems (Nov 2021)

(a) Definitions. As used in this clause—

“Covered contractor information system” means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

“Federal contract information” means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

“Information” means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

“Information system” means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information ([44 U.S.C. 3502](#)).

“Safeguarding” means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) Other requirements. This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial items, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

(End of clause)

## 52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Products and Commercial Services (June 2023)

As prescribed in [12.301\(b\)\(4\)](#), insert the following clause:

### CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL PRODUCTS AND COMMERCIAL SERVICES (JUN 2023)

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

(1) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (JAN 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(2) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

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

(4) [52.209-10](#), Prohibition on Contracting with Inverted Domestic Corporations (NOV 2015).

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

(6) [52.233-3](#), Protest After Award (AUG 1996) ( [31 U.S.C. 3553](#)).

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

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

[Contracting Officer check as appropriate.]

\_\_\_ (1) [52.203-6](#), Restrictions on Subcontractor Sales to the Government (JUN 2020), with *Alternate I* (NOV 2021) ( [41 U.S.C. 4704](#) and [10 U.S.C. 4655](#)).

\_\_\_ (2) [52.203-13](#), Contractor Code of Business Ethics and Conduct (NOV 2021) ( [41 U.S.C. 3509](#)).

\_\_\_ (3) [52.203-15](#), Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

  X   (4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (JUN 2020) (Pub. L. 109-282) ( [31 U.S.C. 6101 note](#)).

\_\_\_ (5) [Reserved].

\_\_\_ (6) [52.204-14](#), Service Contract Reporting Requirements (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

\_\_\_ (7) [52.204-15](#), Service Contract Reporting Requirements for Indefinite-Delivery Contracts (OCT 2016) (Pub. L. 111-117, section 743 of Div. C).

\_\_\_ (8) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

  X   (9) [52.209-6](#), Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021) ( [31 U.S.C. 6101 note](#)).

\_\_\_ (10) [52.209-9](#), Updates of Publicly Available Information Regarding Responsibility Matters (OCT 2018) ( [41 U.S.C. 2313](#)).

\_\_\_ (11) [Reserved].

- ☐ (12) [52.219-3](#), Notice of HUBZone Set-Aside or Sole-Source Award (OCT 2022) ( [15 U.S.C. 657a](#)).
- ☐ (13) [52.219-4](#), Notice of Price Evaluation Preference for HUBZone Small Business Concerns (OCT 2022) (if the offeror elects to waive the preference, it shall so indicate in its offer) ( [15 U.S.C. 657a](#)).
- ☐ (14) [Reserved]
- ☒ (15) (i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2020) ( [15 U.S.C. 644](#)).
- ☐ (ii) Alternate I (MAR 2020) of [52.219-6](#).
- ☐ (16)
- ☐ (i) [52.219-7](#), Notice of Partial Small Business Set-Aside (Nov 2020) ( [15 U.S.C. 644](#)).
- ☐ (ii) Alternate I (MAR 2020) of [52.219-7](#).
- ☐ (17) [52.219-8](#), Utilization of Small Business Concerns (OCT 2022) ( [15 U.S.C. 637\(d\)\(2\)](#) and (3)).
- ☐ (18)
- ☐ (i) [52.219-9](#), Small Business Subcontracting Plan (OCT 2022) ( [15 U.S.C. 637\(d\)\(4\)](#)).
- ☐ (ii) Alternate I (NOV 2016) of [52.219-9](#).
- ☐ (iii) Alternate II (NOV 2016) of [52.219-9](#).
- ☐ (iv) Alternate III (JUN 2020) of [52.219-9](#).
- ☐ (v) Alternate IV (SEP 2021) of [52.219-9](#).
- ☒ (19) (i) [52.219-13](#), Notice of Set-Aside of Orders (MAR 2020) ( [15 U.S.C. 644\(r\)](#)).
- ☐ (ii) Alternate I (MAR 2020) of [52.219-13](#).
- ☐ (20) [52.219-14](#), Limitations on Subcontracting (OCT 2022) ( [15 U.S.C. 637s](#)).
- ☐ (21) [52.219-16](#), Liquidated Damages—Subcontracting Plan (SEP 2021) ( [15 U.S.C. 637\(d\)\(4\)\(F\)\(i\)](#)).
- ☐ (22) [52.219-27](#), Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (OCT 2022) ( [15 U.S.C. 657f](#)).
- ☒ (23) (i) [52.219-28](#), Post Award Small Business Program Representation (MAR 2023)( [15 U.S.C. 632\(a\)\(2\)](#)).
- ☐ (ii) Alternate I (MAR 2020) of [52.219-28](#).
- ☐ (24) [52.219-29](#), Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (OCT 2022) ( [15 U.S.C. 637\(m\)](#)).
- ☐ (25) [52.219-30](#), Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program (OCT 2022) ( [15 U.S.C. 637\(m\)](#)).
- ☐ (26) [52.219-32](#), Orders Issued Directly Under Small Business Reserves (MAR 2020) ( [15 U.S.C. 644\(r\)](#)).
- ☐ (27) [52.219-33](#), Nonmanufacturer Rule (SEP 2021) ( [15U.S.C. 637\(a\)\(17\)](#)).
- ☒ (28) [52.222-3](#), Convict Labor (JUN 2003) (E.O.11755).
- ☐ (29) [52.222-19](#), Child Labor-Cooperation with Authorities and Remedies (DEC 2022) (E.O.13126).
- ☒ (30) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).
- ☒ (31) (i) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O.11246).
- ☐ (ii) Alternate I (FEB 1999) of [52.222-26](#).

- \_\_\_ (32) (i) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- \_\_\_ (ii) Alternate I (JUL 2014) of [52.222-35](#).
- ☒ (33) (i) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).
- \_\_\_ (ii) Alternate I (JUL 2014) of [52.222-36](#).
- \_\_\_ (34) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- \_\_\_ (35) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496).
- ☒ (36) (i) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O. 13627).
- \_\_\_ (ii) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and E.O. 13627).
- \_\_\_ (37) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial products or commercial services as prescribed in FAR [22.1803](#).)
- \_\_\_ (38) (i) [52.223-9](#), Estimate of Percentage of Recovered Material Content for EPA–Designated Items (May 2008) ( [42 U.S.C. 6962\(c\)\(3\)\(A\)\(ii\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (ii) Alternate I (MAY 2008) of [52.223-9](#) ( [42 U.S.C. 6962\(i\)\(2\)\(C\)](#)). (Not applicable to the acquisition of commercially available off-the-shelf items.)
- \_\_\_ (39) [52.223-11](#), Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- \_\_\_ (40) [52.223-12](#), Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (JUN 2016) (E.O. 13693).
- \_\_\_ (41)
- (i) [52.223-13](#), Acquisition of EPEAT®-Registered Imaging Equipment (JUN 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (OCT 2015) of [52.223-13](#).
- \_\_\_ (42)
- (i) [52.223-14](#), Acquisition of EPEAT®-Registered Televisions (JUN 2014) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (Jun2014) of [52.223-14](#).
- \_\_\_ (43) [52.223-15](#), Energy Efficiency in Energy-Consuming Products (MAY 2020) ( [42 U.S.C. 8259b](#)).
- \_\_\_ (44)
- (i) [52.223-16](#), Acquisition of EPEAT®-Registered Personal Computer Products (OCT 2015) (E.O.s 13423 and 13514).
- \_\_\_ (ii) Alternate I (JUN 2014) of [52.223-16](#).
- ☒ (45) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (JUN 2020) (E.O. 13513).
- \_\_\_ (46) [52.223-20](#), Aerosols (JUN 2016) (E.O. 13693).
- \_\_\_ (47) [52.223-21](#), Foams (Jun2016) (E.O. 13693).
- \_\_\_ (48)
- (i) [52.224-3](#) Privacy Training (JAN 2017) (5 U.S.C. 552 a).
- \_\_\_ (ii) Alternate I (JAN 2017) of [52.224-3](#).
- \_\_\_ (49)

(i) [52.225-1](#), Buy American-Supplies (OCT 2022) ( [41 U.S.C. chapter 83](#)).

\_\_\_ (ii) Alternate I (OCT 2022) of [52.225-1](#).

\_\_\_ (50)

(i) [52.225-3](#), Buy American-Free Trade Agreements-Israeli Trade Act (DEC 2022) ( [19 U.S.C. 3301 note](#), [19 U.S.C. 2112 note](#), [19 U.S.C. 3805 note](#), [19 U.S.C. 4001 note](#), 19 U.S.C. chapter 29 (sections 4501-4732), Public Law 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.

\_\_\_ (iii) Alternate II (DEC 2022) of [52.225-3](#).

\_\_\_ (iv) Alternate III (JAN 2021) of [52.225-3](#).

\_\_\_ (v) Alternate IV (Oct 2022) of [52.225-3](#).

\_\_\_ (51) [52.225-5](#), Trade Agreements (DEC 2022) ( [19 U.S.C. 2501](#), *et seq.*, [19 U.S.C. 3301 note](#)).

**X** (52) [52.225-13](#), Restrictions on Certain Foreign Purchases (FEB 2021) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

\_\_\_ (53) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

\_\_\_ (54) [52.226-4](#), Notice of Disaster or Emergency Area Set-Aside (Nov 2007) ( [42 U.S.C. 5150](#)).

\_\_\_ (55) [52.226-5](#), Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov2007) ( [42 U.S.C. 5150](#)).

\_\_\_ (56) [52.229-12](#), Tax on Certain Foreign Procurements (FEB 2021).

\_\_\_ (57) [52.232-29](#), Terms for Financing of Purchases of Commercial Products and Commercial Services (NOV 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 3805](#)).

\_\_\_ (58) [52.232-30](#), Installment Payments for Commercial Products and Commercial Services (NOV 2021) ( [41 U.S.C. 4505](#), [10 U.S.C. 3805](#)).

**X** (59) [52.232-33](#), Payment by Electronic Funds Transfer-System for Award Management (OCT2018) ( [31 U.S.C. 3332](#)).

\_\_\_ (60) [52.232-34](#), Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) ( [31 U.S.C. 3332](#)).

\_\_\_ (61) [52.232-36](#), Payment by Third Party (MAY 2014) ( [31 U.S.C. 3332](#)).

\_\_\_ (62) [52.239-1](#), Privacy or Security Safeguards (AUG 1996) ( [5 U.S.C. 552a](#)).

\_\_\_ (63) [52.242-5](#), Payments to Small Business Subcontractors (JAN 2017) ( [15 U.S.C. 637\(d\)\(13\)](#)).

\_\_\_ (64)

(i) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)).

\_\_\_ (ii) Alternate I (APR 2003) of [52.247-64](#).

\_\_\_ (iii) Alternate II (NOV 2021) of [52.247-64](#).

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

[Contracting Officer check as appropriate.]

**X** (1) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter67](#)).



X   (2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (MAY 2014) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

       (3) [52.222-43](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (Multiple Year and Option Contracts) (AUG 2018) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

       (4) [52.222-44](#), Fair Labor Standards Act and Service Contract Labor Standards-Price Adjustment (May 2014) ( [29 U.S.C. 206](#) and [41 U.S.C. chapter 67](#)).

       (5) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).

       (6) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).

  X   (7) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

  X   (8) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

       (9) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (Jun 2020) ( [42 U.S.C. 1792](#)).

(d) *Comptroller General Examination of Record*. The Contractor shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, as defined in FAR [2.101](#), on the date of award of this contract, and does not contain the clause at [52.215-2](#), Audit and Records-Negotiation.

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

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

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

(e)

(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the Contractor is not required to flow down any FAR clause, other than those in this paragraph (e)(1), in a subcontract for commercial products or commercial services. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Nov 2021) ( [41 U.S.C. 3509](#)).

(ii) [52.203-19](#), Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017) (section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113-235) and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions)).

(iii) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Nov 2021) (Section 1634 of Pub. L. 115-91).

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

(v) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(vi) [52.219-8](#), Utilization of Small Business Concerns (OCT 2022) ( [15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702\(a\)](#) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

- (vii) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).
- (viii) [52.222-26](#), Equal Opportunity (SEP 2015) (E.O. 11246).
- (ix) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- (x) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).
- (xi) [52.222-37](#), Employment Reports on Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).
- (xii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).
- (xiii) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).
- (xiv)
  - (A) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O. 13627).
  - (B) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and E.O. 13627).
- (xv) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).
- (xvi) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).
- (xvii) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (E.O. 12989).
- (xviii) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).
- (xix) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).
- (xx)
  - (A) [52.224-3](#), Privacy Training (Jan 2017) ( [5 U.S.C. 552a](#)).
  - (B) Alternate I (JAN 2017) of [52.224-3](#).
- (xxi) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (OCT 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).
- (xxii) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations (JUN 2020) ( [42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause [52.226-6](#).
- (xxiii) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (Mar 2023) ( [31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)). Flow down required in accordance with paragraph (c) of [52.232-40](#).
- (xxiv) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (NOV 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause [52.247-64](#).

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

(End of clause)

*Alternate I* (FEB 2000). As prescribed in [12.301](#) (b)(4)(i), delete paragraph (d) from the basic clause, redesignate paragraph (e) as paragraph (d), and revise the reference to "paragraphs (a), (b), (c), or (d) of this clause" in the redesignated paragraph (d) to read "paragraphs (a), (b), and (c) of this clause".

*Alternate II* (JUN 2023). As prescribed in [12.301](#) (b)(4)(ii), substitute the following paragraphs (d)(1) and (e)(1) for paragraphs (d)(1) and (e)(1) of the basic clause as follows:

(d)(1) The Comptroller General of the United States, an appropriate Inspector General appointed under section 3 or 8 G of the Inspector General Act of 1978 ( [5 U.S.C. App.](#)), or an authorized representative of either of the foregoing officials shall have access to and right to—

(i) Examine any of the Contractor's or any subcontractors' records that pertain to, and involve transactions relating to, this contract; and

(ii) Interview any officer or employee regarding such transactions.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), and (c), of this clause, the Contractor is not required to flow down any FAR clause in a subcontract for commercial products or commercial services, other than—

(i) *Paragraph (d) of this clause.* This paragraph flows down to all subcontracts, except the authority of the Inspector General under paragraph (d)(1)(ii) does not flow down; and

(ii) *Those clauses listed in this paragraph (e)(1).* Unless otherwise indicated below, the extent of the flow down shall be as required by the clause-

(A) [52.203-13](#), Contractor Code of Business Ethics and Conduct (NOV 2021) ( [41 U.S.C. 3509](#)).

(B) [52.203-15](#), Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010) (Section 1553 of Pub. L. 111-5).

(C) [52.204-23](#), Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (NOV 2021) (Section 1634 of Pub. L. 115-91).

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

(E) [52.204-27](#), Prohibition on a ByteDance Covered Application (JUN 2023) (Section 102 of Division R of Pub. L. 117-328).

(F) [52.219-8](#), Utilization of Small Business Concerns (OCT 2022) ( [15 U.S.C. 637\(d\)\(2\) and \(3\)](#)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds the applicable threshold specified in FAR [19.702\(a\)](#) on the date of subcontract award, the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(G) [52.222-21](#), Prohibition of Segregated Facilities (APR 2015).

(H) [52.222-26](#), Equal Opportunity (SEP 2016) (E.O. 11246).

(I) [52.222-35](#), Equal Opportunity for Veterans (JUN 2020) ( [38 U.S.C. 4212](#)).

(J) [52.222-36](#), Equal Opportunity for Workers with Disabilities (JUN 2020) ( [29 U.S.C. 793](#)).

(K) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (DEC 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(L) [52.222-41](#), Service Contract Labor Standards (AUG 2018) ( [41 U.S.C. chapter 67](#)).

(M) \_\_\_ (I) [52.222-50](#), Combating Trafficking in Persons (NOV 2021) ( [22 U.S.C. chapter 78](#) and E.O 13627).

\_\_\_ (2) Alternate I (MAR 2015) of [52.222-50](#) ( [22 U.S.C. chapter 78](#) and E.O. 13627).

(N) [52.222-51](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Maintenance, Calibration, or Repair of Certain Equipment-Requirements (May 2014) ( [41 U.S.C. chapter 67](#)).

(O) [52.222-53](#), Exemption from Application of the Service Contract Labor Standards to Contracts for Certain Services-Requirements (MAY 2014) ( [41 U.S.C. chapter 67](#)).

(P) [52.222-54](#), Employment Eligibility Verification (MAY 2022) (Executive Order 12989).

(Q) [52.222-55](#), Minimum Wages for Contractor Workers Under Executive Order 14026 (JAN 2022).

(R) [52.222-62](#), Paid Sick Leave Under Executive Order 13706 (JAN 2022) (E.O. 13706).

(S)\_\_\_ (I) [52.224-3](#), Privacy Training (JAN 2017) ( [5 U.S.C. 552a](#)).

\_\_\_ (2) Alternate I (JAN 2017) of [52.224-3](#).

(T) [52.225-26](#), Contractors Performing Private Security Functions Outside the United States (Oct 2016) (Section 862, as amended, of the National Defense Authorization Act for Fiscal Year 2008; 10 U.S.C. Subtitle A, Part V, Subpart G Note).

(U) [52.226-6](#), Promoting Excess Food Donation to Nonprofit Organizations. (JUN 2020) ( [42 U.S.C. 1792](#)). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(V) [52.232-40](#), Providing Accelerated Payments to Small Business Subcontractors (MAR 2023) ( [31 U.S.C. 3903](#) and [10 U.S.C. 3801](#)). Flow down required in accordance with paragraph (c) of [52.232-40](#).

(W) [52.247-64](#), Preference for Privately Owned U.S.-Flag Commercial Vessels (Nov 2021) ( [46 U.S.C. 55305](#) and [10 U.S.C. 2631](#)). Flow down required in accordance with paragraph (d) of FAR clause 52.247-64.

(End of clause)

### **DT1052.210-70 Contractor Publicity (Apr 2015)**

The Contractor, or any entity or representative acting on behalf of the Contractor, shall not refer to the supplies or services furnished pursuant to the provisions of this contract in any news release or commercial advertising, or in connection with any news release or commercial advertising, without first obtaining explicit written consent to do so from the Contracting Officer. Should any reference to such supplies or services appear in any news release or commercial advertising issued by or on behalf of the Contractor without the required consent, the Government shall consider institution of all remedies available under applicable law, including 31 U.S.C. 333, and this contract. Further, any violation of this clause may be considered as part of the evaluation of past performance.

(End of clause)

### **52.204-27 Prohibition on a ByteDance Covered Application.**

As prescribed in [4.2203](#)(c), insert the following clause:

#### **PROHIBITION ON A BYTEDANCE COVERED APPLICATION (JUN 2023)**

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

*Covered application* means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.

*Information technology*, as defined in 40 U.S.C. 11101(6)—

(1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) Of that equipment; or

(ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but

(3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.

(b) *Prohibition.* Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor’s employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

(c) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts, including subcontracts for the acquisition of commercial products or commercial services.

(End of clause)