

Federal Acquisition Regulation Subcontract Flowdown Provisions

Clause Title	Title	Applicability
52.203-3	Gratuities	Yes
52.203-5	Covenant against contingent fees	Yes
52.203-6	Restrictions on Subcontractor Sales to the Government (SEP 2006)	Yes (if subcontract over \$150,000)
52.203-7	Anti-Kickback Procedures (OCT 2010)	Yes (if subcontract over \$150,000)
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (SEP 2007)	Yes (if subcontract over \$150,000)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions (OCT 2010)	Yes (if subcontract over \$150,000)
52.203-13	Contractor Code of Business Ethics and Conduct (APR 2010)	Yes (if subcontract exceeds \$5.0 million and has performance period of more than 120 days)
52.203-14	Display of Hotline Poster(s) (DEC 2007)	Yes (if subcontract over \$5.0 million, except when subcontract is for commercial items)
52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (JUN 2010)	Yes (if subcontract will be funded in whole or in part under Recovery Act)
52.204-2	Security Requirements (AUG 1996)	Yes (if the subcontract includes access to classified information, but excluding any reference to Changes clause of the prime contract.)
52.209-6	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment (DEC 2010)	Yes (applies if subcontract exceeds \$30,000, but not if subcontract is for commercial off-the-shelf items)
52.212-5	Contract Terms and Conditions Required to Implement Statutes or Executive Orders - Commercial Items (JAN 2014)	Yes (subparagraph (e) identifies mandatory flowdown clauses in subcontracts for commercial items)
52.214-26	Audit and Records—Sealed Bidding (OCT 1997)	Yes (for all subcontracts over \$150,000 involving sealed bidding)
52.214-28	Subcontractor Cost or Pricing Data—Modifications—Sealed Bidding (OCT 1997)	Yes (for all subcontracts over \$700,000 where certified cost or pricing data is required)
52.215-2	Audit and Records—Negotiation (JUN 1999)	Yes (for all subcontracts over \$150,000)
52.215-12	Subcontractor Cost or Pricing Data (OCT 1997)	Yes (for all subcontracts over \$700,000 where certified cost or pricing data is required)
52.215-13	Subcontractor Cost or Pricing Data—Modifications (OCT 1997)	Yes (for all subcontracts over \$700,000 where certified cost or pricing data is required)
52.215-14	Integrity of Unit Prices (OCT 2010)	Yes (if applicable)
52.215-15	Pension Adjustments and Asset Reversions (OCT 2004)	Yes (if applicable)
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (JUL 2005)	Yes (if applicable)
52.215-19	Notification of Ownership Changes (OCT 1997)	Yes (if applicable)
52.215-20	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data (OCT 2010)	Note 2 applies paragraph (a)(1)
52.215-21	Requirements for Certified Cost or Pricing Data and Data Other Than Certified Cost or Pricing Data - Modifications (OCT 2010)	Note 2 applies paragraphs (a)(1) and (b)
52.219-8	Utilization of Small Business Concerns (JUL 2013)	Yes (if subcontract over \$150,000)
52.219-9	Small Business Subcontracting Plan (JUL 2013)	Yes (if subcontract offers subcontracting possibilities and is expected to exceed \$650,000; not applicable is subcontractor is a small business concern)

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52.219-16	Liquidated Damages - Subcontracting Plan	Yes (included in subcontracts where 52.219-9 applies)
52.222-1	Notice to the Government on Labor Disputes	Yes- All
52.222-3	Convict Labor (JUN 2003)	Yes (implements E.O. 11755)
52.222-4	Contract Work Hours and Safety Standards Act—Overtime Compensation (JUL 2005)	Yes (paragraphs (a) through (d))
52.222-6	Davis-Bacon Act (JUL 2005)	Yes (if construction contract involved)
52.222-17	Nondisplacement of Qualified Workers (JAN 2013)	Yes (implements E.O. 14395)
52.222-19	Child Labor - Cooperation with Authorities and Remedies (DEC 2013)	Yes
52.222-20	Walsh-Healy Public Contracts Act	Yes
52.222-21	Prohibition of Segregated Facilities (FEB 1999)	Yes
52.222-22	Previous Contracts and Compliance Reports (FEB 1999)	Yes; if Seller represents that it has participated in a previous contract or subcontract subject to FAR 52.222-26
52.222-25	Affirmative Action Compliance (APR 1984)	Yes (when FAR 52.222-26 applies)
52.222-26	Equal Opportunity (MAR 2007)	Yes (if subcontract over \$50,000 and subcontractor has 50 or more employees)
52.222-35	Equal Opportunity for Veterans (SEP 2010)	Yes (if subcontract over \$100,000)
52.222-36	Affirmative Action for Workers with Disabilities (OCT 2010)	Yes (if subcontract over \$15,000)
52.222-37	Employment Reports on Veterans (SEP 2010)	Yes (if FAR 52.222-35 applies)
52.222-40	Notification of Employee Rights Under the National Labor Relations Act (DEC 2010)	Yes (if subcontract over \$10,000)
52.222-41	Service Contract Act of 1965 (NOV 2007)	Yes
52.222-50	Combating Trafficking in Persons (FEB 2009)	Yes
52.222-51	Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment - Requirements (NOV 2007)	Yes
52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services - Requirements (FEB 2009)	Yes
52.222-54	Employment Eligibility Verification (AUG 2013)	Yes (if subcontract exceeds \$3,000 except for commercial services that are part of the purchase of a COTS item, or an item that would be a COTS item but for minor modifications, performed by the COTS provider, and are normally provided for that COTS item)
52.223-3	Hazardous Material Identification and Material Safety Data (JAN 1997)	Yes (if contract requires delivery of hazardous materials, defined in FAR 23.301)
52.223-6	Drug-Free Workplace	Yes
52.223-7	Notice of Radioactive Materials (JAN 1997)	Yes
52.223-11	Ozone-Depleting Substances (MAY 2001)	Applies if the product was manufactured with or contains ozone-depleting substances
52.223-12	Refrigeration Equipment and Air Conditions (MAY 1995)	Applies if subcontract is for services involving maintenance, repair or disposal of any equipment or appliance using ozone-depleting substances
52.225-15	Energy Efficiency in Energy-Consuming Products (DEC 2007)	Applies if subcontract requires energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program to be delivered; acquired by subcontractor for use in performing services at Federally-controlled facility; furnished for use by the

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		Government; or specified in the design of a building or work, or incorporated during its construction, renovation or maintenance
52.223-16	IEEE 1680 Standard for the Environmental Assessment of Personal Computer Products (DEC 2007)	Included in contracts for personal computer products, service that require furnishing personal computer products for use by the Government, or contractor operation of Government owned facilities
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011)	Yes (if subcontract over \$3,000)
52.224-2	Privacy Act (APR 1984)	Yes, if applicable
52.225-1	Buy American Act—Supplies (SEP 2009)	Yes
52.225-3	Buy American Act—Free Trade Agreements—Israeli Trade Act (NOV 2012)	Yes
52.225-5	Trade Agreements (NOV 2013)	Yes
52.225-6	Trade Agreements Certificate (JAN 2005)	Yes
52.225-8	Duty-Free Entry (OCT 2010)	Yes
52.225-13	Restrictions on Certain Foreign Purchases (JUN 2008)	Yes
52.225-26	Contractors Performing Private Security Functions Outside the United States (JUL 2013)	Yes (if applicable)
52.226-6	Promoting Excess Food Donation to Nonprofit Organizations (MAR 2009)	Yes (flow down required pursuant to 52.226-6(e))
52.227-1	Authorization and Consent (DEC 2007)	Yes (if subcontract over \$150,000)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (DEC 2007)	Yes (if subcontract over \$150,000)
52.227-9	Refund of Royalties (APR 1984)	Yes (if applicable)
52.227-10	Filing of Patent Applications—Classified Subject Matter (DEC 2007)	Yes (if applicable)
52.227-11	Patent Rights—Ownership by the Contractor (DEC 2007)	Yes (if applicable)
52.227-13	Patent Rights—Ownership by the Government (DEC 2007)	Yes (if applicable)
52.227-14	Rights in Data—General (DEC 2007)	Yes
52.227-16	Additional Data Requirements (JUN 1987)	Yes
52.227-17	Rights in Data—Special Works (DEC 2007)	Yes
52.227-18	Rights in Data—Existing Works (DEC 2007)	Yes
52.227-19	Commercial Computer Software License (DEC 2007)	Yes
52.228-3	Workers' Compensation Insurance (Defense Base Act) (APR 1984)	Yes (if Defense Base Act applies)
52.228-4	Workers' Compensation and War-Hazard Insurance Overseas (APR 1984)	Yes (when the contract will be a public-work contract performed outside the United States and the Secretary of Labor waives the applicability of the Defense Base Act)
52.228-5	Insurance—Work on a Government Installation (JAN 1997)	Yes (if applicable)
52.228-7	Insurance- Liability to Third Persons	Yes (if applicable)
52.229-3	Federal, State, and Local Taxes (FEB 2013)	Yes (if fixed-price contract over \$150,000)
52.229-10	State of New Mexico Gross Receipts and Compensating Tax (APR 2003)	Yes (if applicable)
52.230-2	Cost Accounting Standards (MAY 2012)	Yes (less paragraph (b))
52.230-3	Disclosure and Consistency of Cost Accounting Practices (MAY 2012)	Yes (less paragraph (b))
52.230-6	Administration of Cost Accounting Standards (JUL 2010)	Yes
52.232-16	Progress Payments (APR 2012)	Yes

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52.232-40	Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)	Yes (if flow down required in accordance with 52.232-40(c))
52.234-1	Industrial Resources Developed Under Defense Production Act Title III (DEC 1994)	Yes (if applicable)
52.236-13	Accident Prevention (NOV 1991)	Yes
52.242-1	Notice of Intent to Disallow Costs	Yes
52.242-15	Stop Work Order	Yes
52.243-1	CHANGES – FIXED PRICE	Yes (if applicable)
52.243-2	CHANGES – COST REIMBURSEMENT	Yes (if applicable)
52.243-3	CHANGES – TIME-AND-MATERIALS OR LABOR-HOURS	Yes (if applicable)
52.244-6	Subcontracts for Commercial Items (DEC 2013)	Yes
52.245-1	Government Property (APR 2012)	Yes (if Government property is involved)
52.245-2	Government Property Installation Operation Services (APR 2012)	Yes (if Government property is involved)
52.245-9	USE AND CHARGES	Yes (if applicable)
52.245-17	Special Tooling	Yes (if applicable)
52.245-18	Special Test Equipment	Yes (if applicable)
52.246-1	Contractor Inspection Requirements (APR 1984)	Required when contract is \$150,000 or less and clause is necessary to ensure explicit understanding of contractor's inspection responsibilities
52.246-2	Inspection of Supplies—Fixed-Price (AUG 1996)	Yes
52.246-3	Inspection of Supplies— Cost Reimbursement (MAY 2001)	Yes
52.246-4	Inspection of Services— Fixed-Price (AUG 1996)	Yes
52.246-5	Inspection of Services— Cost Reimbursement (APR 1984)	Yes
52.246-6	Inspection--Time-and-Material and Labor-Hour (MAY 2001)	Yes
52.246-7	INSPECTION OF RESEARCH AND DEVELOPMENT-FIXED-PRICE	Yes (if applicable)
52.246-8	INSPECTION OF RESEARCH AND DEVELOPMENT-COST-REIMBURSEMENT	Yes (if applicable)
52.246-16	Responsibility for Supplies (APR 1984)	Yes
52.247-63	Preference for U.S.-Flag Air Carriers (JUN 2003)	Yes (if international air transportation of personnel or property will be required)
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels (FEB 2006)	Yes
52.248-1	Value Engineering (FEB 2000)	Yes (if subcontract over \$150,000)
52.249-1	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SHORT FORM)	Yes
52.249-4	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM)	Yes
52.249-8	DEFAULT (FIXED-PRICE SUPPLY AND SERVICES)	Yes
52.249-9	DEFAULT (FIXED-PRICE RESEARCH AND DEVELOPMENT)	Yes

Department of Defense FAR Supplement (DFARS)

252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract Related Felonies (DEC 2008)	Yes (if over \$150,000)
252.203-7004	Display of Fraud Hotline Posters (DEC 2012)	Yes (if subcontract exceeds \$5.0 million, except when subcontract is for commercial items)
252.225-7013	Duty-Free Entry (OCT 2013)	Yes (DOD contracts only)
252.244-7000	Subcontracts for Commercial Items (JUN 2013)	Yes (in all subcontracts for commercial items at any tier)
252.247-7023	Transportation of Supplies by Sea (JUN 2013)	Yes
252.247-7024	Notification of Transportation of Supplies by Sea (MAR 2000)	Yes

**Flowdown Provisions for
Subcontracts Issued Under Federally-funded Grants**

Equal Employment Opportunity	All contracts must contain a provision requiring compliance with Executive Order 11246, Equal Employment Opportunity, as amended by E.O. 11375, Amending Executive Order 11246 Relating to Equal Employment Opportunity, and as supplemented by regulations at 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.	Yes
Copeland "Anti-Kickback Act (18 U.S.C. § 874 and 40 U.S.C. § 276c)	All contracts and subgrants in excess of \$2,000 for construction or repair awarded by recipients and subrecipients must include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. § 874), as supplemented by Department of Labor regulations (29 CFR Part 3 - Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.	Yes (if construction contract involved)
Davis-Bacon Act, as amended (40 U.S.C. §§ 276a to a-7)	When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR Part 5 - Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction). Under this Act, contractors shall be	Yes (if construction contract involved)

	<p>required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.</p>	
<p>Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333)</p>	<p>Where applicable, all contracts awarded by recipients in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers must include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act(40 U.S.C. §§ 327-333), as supplemented by Department of Labor regulations (29 CFR Part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.</p>	<p>Yes (if construction contract involved)</p>
<p>Rights to Inventions Made Under a Contract or Agreement</p>	<p>Contracts or agreements for the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401--Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, and any implementing regulations issued by the awarding agency.</p>	<p>Yes (if contract for the performance of experimental, developmental, or research work)</p>
<p>Clean Air Act (42 U.S.C. §§ 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S. C.</p>	<p>Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 et seq.) and the Federal Water Pollution Control Act as amended(33</p>	<p>Yes</p>

<p>§§ 1251 et seq.), as amended</p>	<p>U.S. C. §§ 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).</p>	
<p>Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352)</p>	<p>Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. The disclosures are forwarded from tier-to-tier up to the recipient.</p>	<p>Yes</p>
<p>Debarment and Suspension (E.O. 12549 and E.O. 12689)</p>	<p>No contract may be made to parties listed on the General Services Administration's Excluded Parties List (List of Parties Excluded from Federal Procurement or Nonprocurement Programs) in accordance with E.O. 12549 and E.O. 12689-- Debarment and Suspension. This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold must provide the required certification regarding its exclusion status and that of its principal employees.</p>	<p>Yes</p>
<p>Access to Records (OMB Circular, 2 CFR Chapter 1)</p>	<p>All negotiated contracts (except for those less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to specific program for the purpose of making audits, examination, excerpts and transcriptions.</p>	<p>Yes</p>