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Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: June 18, 2020

AAPD 20-04

Accelerated Payments to Small Business Contractors and Subcontractors

Subject Category: Acquisition Management
Type: POLICY

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: ☒ Is New ☐ Replaces/ ☐ Amends CIB/AAPD

Applicable to: ☒ Existing awards; ☐ Modification required

☐ No later than

☒ As noted in guidance below

☒ All applicable RFPs and new awards issued after the effective date of this AAPD.

☐ Other

Precedes change to:

☐ AIDAR Part(s) Appendix

☐ USAID Automated Directives System (ADS)

☐ Code of Federal Regulations

☒ Federal Acquisition Regulations

32.009

☐ No change to regulations

☒ New or Revised Provision/Clause Provided Herein: If checked, scheduled update to GLAAS: As noted in guidance below

Mark Walther
Senior Procurement Executive

I.PURPOSE:

The purpose of this AAPD is to inform Acquisition and Assistance professionals of the issuance of a class deviation from the Federal Acquisition Regulation (FAR) aimed at providing accelerated payments to small business contractors and subcontractors. The deviation is effective through June 18, 2022 unless rescinded earlier when the FAR is amended by FAR case 2020-0007.

FAR Section 32.009 and clause 52.232-40, Providing Accelerated Payments to Small Business Subcontractors, have been revised to allow for accelerated payments to small businesses and to prime contractors that subcontract with small businesses.

REQUIRED ACTION(s):

Solicitations and Resulting Contracts:

For **non-commercial items above the simplified acquisition threshold**, COs must include the clause at 52.232-40 in Attachment 1 (Text of deviated clauses) in all new solicitations and resultant contracts.

For **commercial items under FAR part 12**, COs must include the clauses 52.212-5 and 52.244-6 in Attachment 1 (Text of deviated clauses), which incorporates clause 52.232-40 by reference.

For **non-commercial items using simplified acquisition procedures in FAR part 13**, COs must include the clause at 52.213-4 in Attachment 1 (Text of deviated clauses), which incorporates clause 52.232-40 by reference.

Modification of Existing Contracts:

To the maximum extent practicable, COs must issue a bilateral modification to existing contracts at their earliest convenience to replace the appropriate clause with the deviated version in this AAPD.

II.BACKGROUND:

FAR 32.009 prescribes requirements and procedures for agencies to encourage accelerated payments to subcontractors. FAR 32.903(a)(5) allows agency heads to authorize the use of accelerated payment methods specified in 5 CFR 1315.5.

Currently, the FAR provides for accelerated payments to small business subcontractors only. Section 873 of the NDAA for FY 2020 amended 31 U.S.C. 3903 to provide for accelerated payments to prime contractors that subcontract with small business concerns and to prime contractors that are small businesses. While the FAR case 2020-007, which will implement this change, is going through the rulemaking process, the CAAC letter 20202-02 issued on April 6, 2020 serves as the CAAC consultation for agencies to pursue a class deviation from the FAR.

Issuance of this revision will -

1. provide accelerated payments to prime contractors that are small businesses’;
2. establish a goal of 15 days after receipt of a proper invoice for payments to prime contractors that are small businesses and prime contractors that subcontract with small business concerns.

Upon receipt of such payments, prime contractors must, to the maximum extent practicable make accelerated payments to its small business subcontractors. Such contractors further agree to make such payments without further consideration from or fees charged to the subcontractors.

III.GUIDANCE:

When acquiring **noncommercial items above the simplified acquisition threshold**, the CO will be required to add clause 52.232-40 from the AAPD Acquisition Clause database within GLAAS after they select the appropriate FAR Clause Template. COs should not select clause 52.232-40 from the FAR Clause Template list.

For **commercial items under FAR part 12**, COs must choose the deviated versions of 52.212-5 and 52.244-6 from the AAPD Acquisition Clause database within GLAAS after they select the appropriate FAR Clause Template. These two clauses are part of the mandatory FAR Clause Template so they will be automatically included from the FAR Clause Template. As this will create two versions of the same clause in the document, the CO will need to “Edit Externally” the GLAAS generated contract in the e-Contract tab of GLAAS and then “Check Out” the contract. This action will download the file into Microsoft Word where the CO can manually delete the original FAR Clauses 52.212-5 and 52.244-6, save the file, and upload the final document back into GLAAS or ASIST. This will ensure that both clauses only appear once in the award and will eliminate conflicting language.

When buying **non-commercial items using simplified acquisition procedures in FAR part 13**, COs should select clause 52.213-4 from the AAPD Acquisition Clause database within GLAAS after they select the appropriate FAR Clause template.

Modifications should be issued at the CO’s earliest convenience in order to provide relief to USAID partners. COs may combine this revision with other planned modifications.

Use of the clauses in this class deviation will be tracked in GLAAS in accordance with the requirements of AIDAR 701-470(f). However, if the award/modification and clauses are not generated in GLAAS, the CO must track the use of these deviated clauses and submit a report to the A&A Mailbox at policymailbox@usaid.gov, with a copy to Jacqueline Lewis-Taylor at jltaylor@usaid.gov.

IV.POINT OF CONTACT:

USAID Contracting Officers may direct their questions about this AAPD to M/OAA/Policy at [“Ask-MOAA-Policy”](#).

V.ATTACHMENTS:

Attachment 1 – Text of Deviated Clauses
Attachment 2 – FAR Deviation Text

Attachment 1 –Text of Deviated Clauses:

****Revisions/additions are in bold text**

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items.

(Deviation #: M/OAA-DEV-FAR-20-05c)

As prescribed in 12.301(b)(4), insert the following clause:

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders-Commercial Items (Mar 2020)[(DEVIATION JUN 2020)]

(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 items:

(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 (Jul 2018) (Section 1634 of Pub. L. 115-91).

(3) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

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

(5) 52.233-3, Protest After Award (Aug 1996) (31 U.S.C. 3553).

(6) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Public Laws 108-77 and 108-78 (19 U.S.C. 3805note)).

(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 items:

[Contracting Officer check as appropriate.]

___(1) 52.203-6, Restrictions on Subcontractor Sales to the Government (Sep 2006), with Alternate I (Oct 1995) (41 U.S.C. 4704 and 10 U.S.C. 2402).

___(2) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509)).

___(3) 52.203-15, Whistleblower Protections under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5). (Applies to contracts funded by the American Recovery and Reinvestment Act of 2009.)

___(4) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards (Oct 2018) (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) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Oct 2015) (31 U.S.C. 6101note).
- ___(9) 52.209-9, Updates of Publicly Available Information Regarding Responsibility Matters (Oct 2018) (41 U.S.C. 2313).
- ___(10) [Reserved].
- ___(11) (i) 52.219-3, Notice of HUBZone Set-Aside or Sole-Source Award (Mar 2020) (15 U.S.C.657a).
 - (ii) Alternate I (Mar 2020) of 52.219-3.
- ___(12) (i) 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns (Mar 2020) (if the offeror elects to waive the preference, it shall so indicate in its offer) (15 U.S.C. 657a).
 - (ii) Alternate I (Mar 2020) of 52.219-4.
- ___(13) [Reserved]
- ___(14) (i) 52.219-6, Notice of Total Small Business Set-Aside (Mar 2020) (15 U.S.C.644).
 - (ii) Alternate I (Mar 2020).
- ___(15) (i) 52.219-7, Notice of Partial Small Business Set-Aside (Mar 2020) (15 U.S.C. 644).
 - (ii) Alternate I (Mar 2020) of 52.219-7.
- ___(16) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C. 637(d)(2) and (3)).
- ___(17) (i) 52.219-9, Small Business Subcontracting Plan (Mar 2020) (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 (Mar 2020) of 52.219-9.
 - (v) Alternate IV (Aug 2018) of 52.219-9
- ___(18) 52.219-13, Notice of Set-Aside of Orders (Mar 2020) (15 U.S.C. 644(r)).
- ___(19) 52.219-14, Limitations on Subcontracting (Mar 2020) (15 U.S.C.637(a)(14)).
- ___(20) 52.219-16, Liquidated Damages-Subcontracting Plan (Jan 1999) (15 U.S.C. 637(d)(4)(F)(i)).
- ___(21) 52.219-27, Notice of Service-Disabled Veteran-Owned Small Business Set-Aside (Mar 2020) (15 U.S.C. 657f).
- ___(22) (i) 52.219-28, Post Award Small Business Program Rerepresentation (Mar 2020) (15 U.S.C. 632(a)(2)).
 - (ii) Alternate I (MAR 2020) of 52.219-28.
- ___(23) 52.219-29, Notice of Set-Aside for, or Sole Source Award to, Economically Disadvantaged Women-Owned Small Business Concerns (Mar 2020) (15 U.S.C. 637(m)).
- ___(24) 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 (Mar 2020) (15 U.S.C. 637(m)).
- ___(25) 52.219-32, Orders Issued Directly Under Small Business Reserves (Mar 2020) (15 U.S.C. 644(r)).
- ___(26) 52.219-33, Nonmanufacturer Rule (Mar 2020) (15 U.S.C. 637(a)(17)).
- ___(27) 52.222-3, Convict Labor (Jun 2003) (E.O.11755).

- __(28) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (Jan 2020) (E.O.13126).
- __(29) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).
- __(30) (i) 52.222-26, Equal Opportunity (Sep 2016) (E.O.11246).
(ii) Alternate I (Feb 1999) of 52.222-26.
- __(31) (i) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212).
(ii) Alternate I (Jul 2014) of 52.222-35.
- __(32) (i) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C.793).
(ii) Alternate I (Jul 2014) of 52.222-36.
- __(33) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C. 4212).
- __(34) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).
- __(35) (i) 52.222-50, Combating Trafficking in Persons (Jan 2019) (22 U.S.C. chapter 78 and E.O. 13627).
(ii) Alternate I (Mar 2015) of 52.222-50 (22 U.S.C. chapter78 and E.O. 13627).
- __(36) 52.222-54, Employment Eligibility Verification (Oct 2015). (Executive Order 12989). (Not applicable to the acquisition of commercially available off-the-shelf items or certain other types of commercial items as prescribed in 22.1803.)
- __(37) (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.)
- __(38) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693).
- __(39) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693).
- __(40) (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.
- __(41) (i) 52.223-14, Acquisition of EPEAT®-Registered Televisions (Jun 2014) (E.O.s 13423 and 13514).
(ii) Alternate I (Jun 2014) of 52.223-14.
- __(42) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b).
- __(43) (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.
- __(44) 52.223-18, Encouraging Contractor Policies to Ban Text Messaging While Driving (Aug 2011) (E.O. 13513).
- __(45) 52.223-20, Aerosols (Jun 2016) (E.O. 13693).
- __(46) 52.223-21, Foams (Jun 2016) (E.O. 13693).
- __(47) (i) 52.224-3 Privacy Training (Jan 2017) (5 U.S.C. 552 a).
(ii) Alternate I (Jan 2017) of 52.224-3.
- __(48) 52.225-1, Buy American-Supplies (May 2014) (41 U.S.C. chapter 83).

- __(49) (i) 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act (May 2014) (41 U.S.C. chapter 83, 19 U.S.C. 3301note, 19 U.S.C. 2112note, 19 U.S.C. 3805 note, 19 U.S.C. 4001 note, Pub. L. 103-182, 108-77, 108-78, 108-286, 108-302, 109-53, 109-169, 109-283, 110-138, 112-41, 112-42, and 112-43.
- (ii) Alternate I (May 2014) of 52.225-3.
- (iii) Alternate II (May 2014) of 52.225-3.
- (iv) Alternate III (May 2014) of 52.225-3.
- __(50) 52.225-5, Trade Agreements (Oct 2019) (19 U.S.C. 2501, *et seq.*, 19 U.S.C. 3301 note).
- __(51) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).
- __(52) 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. 2302 Note).
- __(53) 52.226-4, Notice of Disaster or Emergency Area Set-Aside (Nov 2007) (42 U.S.C. 5150).
- __(54) 52.226-5, Restrictions on Subcontracting Outside Disaster or Emergency Area (Nov 2007) (42 U.S.C. 5150).
- __(55) 52.232-29, Terms for Financing of Purchases of Commercial Items (Feb 2002) (41 U.S.C.4505, 10 U.S.C.2307(f)).
- __(56) 52.232-30, Installment Payments for Commercial Items (Jan 2017) (41 U.S.C.4505, 10 U.S.C.2307(f)).
- __(57) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (Oct 2018) (31 U.S.C. 3332).
- __(58) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (31 U.S.C.3332).
- __(59) 52.232-36, Payment by Third Party (May 2014) (31 U.S.C.3332).
- __(60) **52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2003) (DEVIATION JUN 2020) (31 U.S.C. 3903 and 10 U.S.C 2307).**
- __(61) 52.239-1, Privacy or Security Safeguards (Aug 1996) (5 U.S.C. 552a).
- __(62) 52.242-5, Payments to Small Business Subcontractors (Jan 2017) (15 U.S.C. 637(d)(13)).
- __(63) (i) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).
- (ii) Alternate I (Apr 2003) of 52.247-64.
- (iii) Alternate II (Feb 2006) 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 items:

[Contracting Officer check as appropriate.]

- __(1) 52.222-17, Nondisplacement of Qualified Workers (May 2014)(E.O. 13495).
- __(2) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C. chapter 67).
- __(3) 52.222-42, Statement of Equivalent Rates for Federal Hires (May 2014) (29 U.S.C. 206 and 41 U.S.C. chapter 67).

- __ (4) 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).
- __ (5) 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).
- __ (6) 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).
- __ (7) 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).
- __ (8) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015).
- __ (9) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706).
- __ (10) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (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, 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 items. 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 (Oct 2015) (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 (Jul 2018) (Section 1634 of Pub. L. 115-91).

(iv) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(v) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (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 \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(vi) 52.222-17, Nondisplacement of Qualified Workers (May 2014) (E.O. 13495). Flow down required in accordance with paragraph (l) of FAR clause 52.222-17.

(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 (Oct 2015) (38 U.S.C.4212).

(x) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C.793).

(xi) 52.222-37, Employment Reports on Veterans (Feb 2016) (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 (Jan 2019) (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 (Oct 2015) (E.O. 12989).

(xviii) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015).

(xix) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2017) (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. 2302 Note).

(xxii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (42 U.S.C. 1792). Flow down required in accordance with paragraph (e) of FAR clause 52.226-6.

(xxiii) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx.1241(b) 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 items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

52.213-4 Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items).

(Deviation #: M/OAA-DEV-FAR-20-05c)

As prescribed in 13.302-5(d), insert the following clause:

**52.213-4 Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items)
(Jan 2020)[(DEVIATION JUN 2020)]**

(a) The Contractor shall comply with the following Federal Acquisition Regulation (FAR) clauses that are incorporated by reference:

(1) The clauses listed below implement provisions of law or Executive order:

(i) 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)).

(ii) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(iii) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(iv) 52.222-3, Convict Labor (Jun 2003) (E.O.11755).

(v) 52.222-21, Prohibition of Segregated Facilities (Apr 2015).

(vi) 52.222-26, Equal Opportunity (2016) (E.O.11246).

(vii) 52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008) (E.O.s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

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

(ix) 52.233-4, Applicable Law for Breach of Contract Claim (Oct 2004) (Pub.L.108-77, 108-78 (19 U.S.C. 3805 note)).

(2) Listed below are additional clauses that apply:

(i) 52.232-1, Payments (Apr 1984).

(ii) 52.232-8, Discounts for Prompt Payment (Feb 2002).

(iii) 52.232-11, Extras (Apr 1984).

(iv) 52.232-25, Prompt Payment (Jan 2017).

- (v) 52.232-39, Unenforceability of Unauthorized Obligations (Jun 2013).
- (vi) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013) **(DEVIATION JUN 2020)** (31 U.S.C. 3903 and 10 U.S.C. 2307)
- (vii) 52.233-1, Disputes (May 2014).
- (viii) 52.244-6, Subcontracts for Commercial Items (Aug 2019) **(DEVIATION JUN 2020)**.
- (ix) 52.253-1, Computer Generated Forms (Jan 1991).

(b) The Contractor shall comply with the following FAR clauses, incorporated by reference, unless the circumstances do not apply:

- (1) The clauses listed below implement provisions of law or Executive order:
 - (i) 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards ((Pub. L. 109-282) (31 U.S.C. 6101 note) (Applies to contracts valued at \$30,000 or more).
 - (ii) 52.222-19, Child Labor-Cooperation with Authorities and Remedies (Jan 2020) (E.O.13126) (Applies to contracts for supplies exceeding the micro-purchase threshold.)
 - (iii) 52.222-20, Contracts for Materials, Supplies, Articles, and Equipment Exceeding \$15,000 (May 2014) (41 U.S.C.chapter 65) (Applies to supply contracts over \$15,000 in the United States, Puerto Rico, or the U.S. Virgin Islands).
 - (iv) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C.4212) (applies to contracts of \$150,000 or more).
 - (v) 52.222-36, Equal Employment for Workers with Disabilities (Jul 2014) (29 U.S.C.793) (Applies to contracts over \$15,000, unless the work is to be performed outside the United States by employees recruited outside the United States.) (For purposes of this clause, "United States" includes the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.)
 - (vi) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C.4212) (Applies to contracts of \$150,000 or more).
 - (vii) 52.222-41, Service Contract Labor Standards (Aug 2018) (41 U.S.C.chapter 67) (Applies to service contracts over \$2,500 that are subject to the Service Contract Labor Standards statute and will be performed in the United States, District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, Johnston Island, Wake Island, or the outer Continental Shelf).
 - (viii) (A) 52.222-50, Combating Trafficking in Persons (Jan 2019) (22 U.S.C. chapter78 and E.O 13627) (Applies to all solicitations and contracts).
 - (B) Alternate I (Mar 2015) (Applies if the Contracting Officer has filled in the following information with regard to applicable directives or notices: Document title(s), source for obtaining document(s), and contract performance location outside the United States to which the document applies).
 - (ix) 52.222-55, Minimum Wages Under Executive Order 13658 (Dec 2015) (Applies when 52.222-6 or 52.222-41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).
 - (x) 52.222-62, Paid Sick Leave Under Executive Order 13706 (J 2017) (E.O. 13706) (Applies when 52.222-6 or 52.222-41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia.))

(xi) 52.223-5, Pollution Prevention and Right-to-Know Information (May 2011) (E.O. 13423) (Applies to services performed on Federal facilities).

(xii) 52.223-11, Ozone-Depleting Substances and High Global Warming Potential Hydrofluorocarbons (Jun 2016) (E.O. 13693)(applies to contracts for products as prescribed at FAR 23.804(a)(1)).

(xiii) 52.223-12, Maintenance, Service, Repair, or Disposal of Refrigeration Equipment and Air Conditioners (Jun 2016) (E.O. 13693) (Applies to maintenance, service, repair, or disposal of refrigeration equipment and air conditioners).

(xiv) 52.223-15, Energy Efficiency in Energy-Consuming Products (Dec 2007) (42 U.S.C. 8259b) (Unless exempt pursuant to 23.204, applies to contracts when energy-consuming products listed in the ENERGY STAR® Program or Federal Energy Management Program (FEMP)) will be-

(A) Delivered;

(B) Acquired by the Contractor for use in performing services at a Federally-controlled facility;

(C) Furnished by the Contractor for use by the Government; or

(D) Specified in the design of a building or work, or incorporated during its construction, renovation, or maintenance).

(xv) 52.223-20, Aerosols (Jun 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons as a propellant or as a solvent; or contracts for maintenance or repair of electronic or mechanical devices).

(xvi) 52.223-21, Foams (Jun 2016) (E.O. 13693) (Applies to contracts for products that may contain high global warming potential hydrofluorocarbons or refrigerant blends containing hydrofluorocarbons as a foam blowing agent; or contracts for construction of buildings or facilities).

(xvii) 52.225-1, Buy American-Supplies (May 2014) (41 U.S.C.chapter 67) (Applies to contracts for supplies, and to contracts for services involving the furnishing of supplies, for use in the United States or its outlying areas, if the value of the supply contract or supply portion of a service contract exceeds the micro-purchase threshold and the acquisition-

(A) Is set aside for small business concerns; or

(B) Cannot be set aside for small business concerns (see 19.502-2), and does not exceed \$25,000).

(xviii) 52.226-6, Promoting Excess Food Donation to Nonprofit Organizations (May 2014) (42 U.S.C. 1792) (Applies to contracts greater than \$25,000 that provide for the provision, the service, or the sale of food in the United States).

(xix) 52.232-33, Payment by Electronic Funds Transfer-System for Award Management (Oct 2013)(Applies when the payment will be made by electronic funds transfer (EFT) and the payment office uses the System for Award Management (SAM) as its source of EFT information).

(xx) 52.232-34, Payment by Electronic Funds Transfer-Other than System for Award Management (Jul 2013) (Applies when the payment will be made by EFT and the payment office does not use the SAM database as its source of EFT information).

(xxi) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C.App.1241) (Applies to supplies transported by ocean vessels (except for the types of subcontracts listed at 47.504(d)).

(2) Listed below are additional clauses that may apply:

(i) 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (Jun 2016) (Applies to contracts when the contractor or a subcontractor at any tier may have Federal contract information residing in or transiting through its information system.

(ii) 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015) (Applies to contracts over \$35,000).

(iii) 52.211-17, Delivery of Excess Quantities (1989) (Applies to fixed-price supplies).

(iv) 52.247-29, F.o.b. Origin (Feb 2006) (Applies to supplies if delivery is f.o.b. origin).

(v) 52.247-34, F.o.b. Destination (Nov 1991) (Applies to supplies if delivery is f.o.b. destination).

(c) *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 this/these address(es):

[Insert one or more Internet addresses]

(d) *Inspection/Acceptance*. The Contractor shall tender for acceptance only those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its postacceptance rights-

(1) Within a reasonable period of time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(e) *Excusable delays*. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(f) *Termination for the Government's convenience.* The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges that the Contractor can demonstrate to the satisfaction of the Government, using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(g) *Termination for cause.* The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(h) *Warranty.* The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(End of clause)

52.232-40 Providing Accelerated Payments to Small Business Subcontractors.

(Deviation #: M/OAA-DEV-FAR-20-05c)

As prescribed in 32.009-2, insert the following clause:

52.232-40 PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS (DEC 2013)[(DEVIATION JUN 2020)]

(a) **(1) In accordance with 31 U.S.C. 3903 and 10 U.S.C. 2307, upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract in accordance with the accelerated payment date established, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, with a goal of 15 days after receipt of a proper invoice and all other required documentation from the small business subcontractor if a specific payment date is not established by contract.**

(2) The Contractor agrees to make such payments to its small business subcontractors without any further consideration from or fees charged to the subcontractor.

(b) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(c) Include the substance of this clause,

including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of Clause)

52.244-6 Subcontracts for Commercial Items.

(Deviation #: M/OAA-DEV-FAR-20-05c)

As prescribed in 44.403 , insert the following clause:

52.244-6 Subcontracts for Commercial Items (Aug 2019)[(DEVIATION JUN 2020)]

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

Commercial item and “commercially available off-the-shelf item” have the meanings contained in Federal Acquisition Regulation 2.101, Definitions.

Subcontract includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Oct 2015) (41 U.S.C. 3509), if the subcontract exceeds \$5.5 million and has a performance period of more than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) 52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) 52.203-19, Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements (Jan 2017).

(iv) 52.204-21, Basic Safeguarding of Covered Contractor Information Systems (Jun 2016), other than subcontracts for commercially available off-the-shelf items, if flow down is required in accordance with paragraph (c) of FAR clause 52.204-21.

(v) 52.204-23, Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities (Jul 2018) (Section 1634 of Pub. L. 115-91).

(vi) 52.204-25, Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (Aug 2019) (Section 889(a)(1)(A) of Pub. L. 115-232).

(vii) 52.219-8, Utilization of Small Business Concerns (Oct 2018) (15 U.S.C.637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$700,000 (\$1.5 million for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

- (viii) 52.222-21, of Segregated Facilities (Apr 2015).
- (ix) 52.222-26, Equal Opportunity (2015) (E.O.11246).
- (x) 52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C.4212(a));
- (xi) 52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014) (29 U.S.C.793).
- (xii) 52.222-37, Employment Reports on Veterans (Feb 2016) (38 U.S.C.4212)
- (xiii) 52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496), if flow down is required in accordance with paragraph (f) of FAR clause 52.222-40.
- (xiv) (A) 52.222-50, Combating Trafficking in Persons (Jan 2019) (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) 52.222-55, Minimum Wages under Executive Order 13658 (Dec 2015), if flow down is required in accordance with paragraph (k) of FAR clause 52.222-55.
- (xvi) 52.222-62, Paid Sick Leave Under Executive Order 13706 (Jan 2017) (E.O. 13706), if flow down is required in accordance with paragraph (m) of FAR clause 52.222-62.
- (xvii) (A) 52.224-3, Privacy Training (Jan 2017) (5 U.S.C. 552a) if flow down is required in accordance with 52.224-3(f).
- (B) Alternate I (Jan 2017) of 52.224-3, if flow down is required in accordance with 52.224-3(f) and the agency specifies that only its agency-provided training is acceptable).
- (xviii) 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. 2302 Note).
- (xix) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (Dec 2013)(**DEVIATION JUN 2020**), if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.
- (xx) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App.1241 and 10 U.S.C.2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

Attachment 2 – FAR Deviation Text:

Additions are **[bolded and bracketed]**, deletions are ~~struck through~~.
FAR text unchanged shown as asterisks *** or *****

(Deviation #: M/OAA-DEV-FAR-20-05c)

PART 12—ACQUISITION OF COMMERCIAL ITEMS

Subpart 12.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(d) ***

~~(12) Insert the clause at 52.232-40, Providing Accelerated Payments to Small Business Subcontractors, as prescribed in 32.009-2.~~

(Deviation #: M/OAA-DEV-FAR-20-05c)

PART 32—CONTRACT FINANCING

32.09 Providing accelerated payments to small business **[contractors and to prime contractors that subcontract with a small business concern]**~~subcontractors.~~

32.009-1 General.

[(a) Pursuant to 31 U.S.C. 3903(a) and 10 U.S.C. 2307(a), agencies shall provide accelerated payments, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice and all other required documentation, if a specific payment date is not established by contract, to—

- 1) Small business contractors, and**
- 2) Prime contractors that subcontract with a small business concern, if the prime contractor agrees to make payments to the small business subcontractor in accordance with the accelerated payment date, to the maximum extent practicable, without any further consideration from or fees charged to the subcontractor.]**~~Pursuant to the~~

~~policy provided by OMB Memorandum M-12-16, Providing Prompt Payment to Small Business Subcontractors (and as extended by OMB Memoranda M-13-15 and M-14-10, both titled Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors), agencies shall take measures to ensure that prime contractors pay small business subcontractors on an accelerated timetable to the maximum extent practicable, and upon receipt of accelerated payments from the Government. This acceleration does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.~~

[(b)] This acceleration does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.

32.009-2 Contract clause.

Insert clause 52.232-40, Providing Accelerated Payments to Small Business Subcontractors, in all solicitations and contracts.

* * * * *

(Deviation #: M/OAA-DEV-FAR-20-05c)

SUBPART 32.9—PROMPT PAYMENT

* * * * *

32.903 Responsibilities.

(a) * * *

(5) May authorize the use of the accelerated payment methods specified at 5 CFR 1315.5 **[(but see 32.009-1(a))]**.

* * * * *

32.906 Making payments.

(a) * * *

(2) That the use of accelerated payment methods are necessary (see 32.903(a)(5)) **[(but see 32.009-1(a))]**.

* * * * *

(Deviation #: M/OAA-DEV-FAR-20-05c)

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

* * * * *

Subpart 52.2—Text of Provisions and Clauses

* * * * *

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

As prescribed in 12.301(b)(4), insert the following clause:

CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS—COMMERCIAL ITEM (MAR 2020)[(DEVIAION JUN 2020)]

* * * * *

(b) * * *

_ (60) [52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)](DEVIAION JUN 2020)(31 U.S.C. 3903 and 10 U.S.C. 2307).

_ (61) 52.239-1, Privacy or Security Safeguards (AUG 1996) (5 U.S.C. 552a).

_ ([62]64) 52.242-5, Payments to Small Business Subcontractors (JAN 2017)(15 U.S.C. 637(d)(13)).

_ ([63]62)(i) 52.247-64, Preference for Privately Owned U.S.- Flag Commercial Vessels (Feb 2006) (46 U.S.C. Appx. 1241(b) and 10 U.S.C. 2631).

_ (ii) Alternate I (Apr 2003) of 52.247-64.

_ (iii) Alternate II (Feb 2006) of 52.247-64.

* * * * *

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

As prescribed in 13.302-5(d), insert the following clause:

TERMS AND CONDITIONS—SIMPLIFIED ACQUISITIONS (OTHER THAN COMMERCIAL ITEMS (JAN 2020)[(DEVIAION JUN 2020)]

(a) ***

(2) ***

(vi) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)[(DEVIAION JUN 2020)(31 U.S.C. 3903 and 10 U.S.C. 2307)].

(viii) 52.244-6, Subcontracts for Commercial Items (AUG 2019)[(DEVIAION JUN 2020)].

* * * * *

52.232-40 Providing Accelerated Payments to Small Business Subcontractors.

As prescribed in 32.009-2, insert the following clause:

PROVIDING ACCELERATED PAYMENTS TO SMALL BUSINESS SUBCONTRACTORS
(DEC 2013)[(DEVIATION JUN 2020)]

(a)[(1) **In accordance with 31 U.S.C. 3903 and 10 U.S.C. 2307, u**]Upon receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract **[in accordance with the accelerated payment date established]**, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, **[with a goal of 15 days]** after receipt of a proper invoice and all other required documentation from the small business subcontractor **[if a specific payment date is not established by contract.**

(2) The Contractor agrees to make such payments to its small business subcontractors without any further consideration from or fees charged to the subcontractor].

(d) The acceleration of payments under this clause does not provide any new rights under the Prompt Payment Act.

(e) Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

(End of clause)

* * * * *

52.244-6 Subcontracts for Commercial Items.

As prescribed in 44.403, insert the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS (AUG 2019)[(DEVIATION JUN
2020)]

* * * * *

(c)(1) * * *

(xix) 52.232-40, Providing Accelerated Payments to Small Business Subcontractors (DEC 2013)[(DEVIATION JUN 2020)], if flow down is required in accordance with paragraph (c) of FAR clause 52.232-40.

* * * * *