Federal Acquisition Regulation

52.244–6 Subcontracts for Commercial Items.

As prescribed in 44.403(a), insert the following clause:

SUBCONTRACTS FOR COMMERCIAL ITEMS (OCT 2010)

(a) Definitions. As used in this clause—

Commercial item has the meaning 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 nondevelopmental 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 (APR 2010) (Pub. L. 110–252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds $5,000,000 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.


(iii) 52.219–8, Utilization of Small Business Concerns (MAY 2004) (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 $650,000 ($1.5 million for construction of any public facility), the subcontractor must include 52.219–8 in lower tier subcontracts that offer subcontracting opportunities.

(iv) 52.222–26, Equal Opportunity (MAR 2007) (E.O. 11246)

(v) 52.222–35, Equal Opportunity for Veterans (SEP 2010) (38 U.S.C. 4212(a));


(vii) [Reserved]

(viii) 52.222–50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g))

(ix) 52.247–44, 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 52.247–44.
(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)

Alternate I (JUN 2010). As prescribed in 44.403(b), the Contracting Officer shall substitute the following paragraph (d) for paragraph (d) of the base clause, and add the following paragraph (e):

(d) The Contractor shall include the terms of this clause, including this paragraph (d), but not including paragraph (e), in subcontracts awarded under this contract.

(e) To the maximum extent practicable, when the Contractor acts as a purchasing agent for the Government with respect to a purchase that exceeds the simplified acquisition threshold, the Contractor shall conduct market research (10 U.S.C. 2377(c)) to—

(i) Determine if commercial items or, to the extent commercial items suitable to meet the agency’s needs are not available, nondevelopmental items are available that—

(A) Meet the agency’s requirements;

(B) Could be modified to meet the agency’s requirements; or

(C) Could meet the agency’s requirements if those requirements were modified to a reasonable extent; and

(ii) Determine the extent to which commercial items or nondevelopmental items could be incorporated at the component level.

60 FR 48256, Sept. 18, 1995

EDITORIAL NOTE: For Federal Register citations affecting 52.244-6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume on GPO Access.

EDITORIAL NOTE: At 74 FR 40468, Aug. 11, 2009, 52.244-6 was amended; however paragraph (c)(1)(iii) could not be revised due to an inaccurate amendatory instruction.

52.245-1 Government Property.

As prescribed in 45.107(a), insert the following clause:

GOVERNMENT PROPERTY (AUG 2010)

(a) Definitions. As used in this clause—

Acquisition cost means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

Cannibalize means to remove parts from Government property for use or for installation on other Government property.

Contractor-acquired property means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.

Contractor inventory means—

1. Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;

2. Any property that the Government is obligated or has the option to take over under any type of contract, e.g., as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and

3. Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

Contractor’s managerial personnel means the Contractor’s directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

1. All or substantially all of the Contractor’s business;

2. All or substantially all of the Contractor’s operation at any one plant or separate location; or

3. A separate and complete major industrial operation.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Discrepancies incident to shipment means any differences (e.g., count or condition) between the items documented to have been shipped and items actually received.

Equipment means a tangible item that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use. Equipment does not include material, real property, special test equipment or special tooling.

Government-furnished property means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of