



Department of Energy
Acquisition Regulation

No. 99-05
Date July 9, 1999

ACQUISITION LETTER

The Procurement Executive is issuing this Acquisition Letter through a delegation from the Secretary and under the authority of the Federal Acquisition Regulation (FAR), Section 1.301(a)(2).

** * * Plain Language Note * * **

In his memorandum dated June 1, 1998, the President directed the federal government to begin using plain language in its written communications. We are issuing this Acquisition Letter in a revised format to comply with the President's request and we welcome your comments on our approach, as well as your suggestions for additional ways we can simplify our written products. We are specifically interested in knowing if this new format clearly communicates procurement policy and is easier to understand. Please forward your comments to Kevin Smith in the Office of Procurement and Assistance Policy at kevin.m.smith@hq.doe.gov or at 202-586-8189.

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Subject: Deviations, Local Clauses, Uniform Contract Format, and Clause Matrix

References:

FAR 1.4 - *Deviations from the FAR*
FAR 15.204 - *Uniform Contract Format*
DEAR 917.6 - *Management and Operating Contracts*
DEAR 970.5202 - *Deviations*

When is this Acquisition Letter effective?

This AL is effective 10 business days after the date of issuance.

When does this Acquisition Letter expire?

This AL is in effect until it is canceled and/or relocated to the DOE Acquisition Guide.

Who are the points of contact?

Contact the Office of Procurement and Assistance Policy. For deviation issues, contact Michael Righi (michael.l.righi@hq.doe.gov or 202-586-8175). For local clauses and clause matrix issues, contact Kevin Smith (kevin.m.smith@hq.doe.gov or 202-586-8189).

Visit our website at www.pr.doe.gov for information on Acquisition Letters and other policy issues.

This Acquisition Letter represents our initial implementation of some of these recommendations. We will implement the remaining recommendations through either the rulemaking process or through publication of appropriate material in the *DOE Acquisition Guide*.

What is the Guidance included in this Acquisition Letter?

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appropriate. This is not true. Deviations may be necessary to meet the specific needs and requirements of agencies and to provide agencies the ability to test new techniques and methods of acquisition. While the Department must treat all its contractors consistently and fairly--creating a bias for uniformity in solicitations and contracts--it can not ignore special needs or innovations that bring greater effectiveness to the acquisition process.

- ▶ To strengthen the deviation process and provide uniform and consistent application of DOE policies and procedures, the guidance below constitutes our internal Departmental procedures for obtaining approval of FAR or DEAR deviation requests.
- ▶ Previous approval of the same, or a similar, deviation request remains effective only for the period identified in the approval of the deviation request. Each new request for deviation must be supported by the facts of the instant acquisition.

Who can authorize FAR and DEAR deviations?

- ▶ The Procurement Executive
 - ✓ The general rule is that the Procurement Executive or his or her designee must approve any request to deviate from the FAR or the DEAR. Currently, however, the Secretary must authorize any deviation to a FAR solicitation provision or contract clause, due to the FY98 and FY99 Energy and Water Development Appropriation Acts. (See Acquisition Letter 98-02R.)
- ▶ The Head of a Contracting Activity
 - ✓ One exception to the general rule is that the Head of a Contracting Activity may approve a request to deviate from the DEAR, but only if it is:
 - not for a facility management contract, for example, a M&O or a M&I contract.
 - not a deviation from cost principles or cost accounting standards.
 - not a deviation from contract reform clauses (See Attachment A).
 - within the Head of a Contracting Activity's delegated dollar authority (which is based on the value of the contract, not the value of the instant acquisition).
 - a deviation involving patents, data, and copyrights for which the Field Patent Counsel has obtained the concurrence of the Department's Patent Counsel (this approval authority applies without regard to either the Head of Contracting Activity's delegated authority or whether the deviation is to a facility management contract).
 - a deviation from standard financial management clauses for which the Field Chief Financial Officer has obtained the concurrence of the Department's Chief Financial Officer (this approval

deviation request) before the planned execution date of the affected contract or modification. If your request will require expedited review, contact the Office of Management Systems as soon as possible so that Office can assist you in obtaining the extra support you need in a timely manner.

- ✓ You must be especially careful to allow sufficient time for a FAR deviation request. The Office of Management Systems will process each FAR deviation request to obtain Secretarial authorization, when required by Pub. L. 105-245, and after obtaining it will coordinate the Secretary's written notification to the House of Representatives and the Senate. The Secretary must notify Congress at least 60 days before the award or modification of the DOE contract.
- ▶ Submit supplemental information in writing. (Oral communications are permitted and encouraged, but the decision to approve or disapprove will rest primarily on the written record.)

What information is included in the request package?

- ▶ An executive summary of the rationale for each requested deviation. (For a deviation with an extremely brief rationale, you do not need to prepare an executive summary.)
- ▶ Identification of all approved deviations included in the package (for example, those authorized by the Director of the Office of Procurement and Assistance Policy through Acquisition Letters or other forms of communication).
- ▶ Identification of all clauses affected by the deviation request.
- ▶ A statement that, other than the identified approved deviations and the identified requested deviations, there are no other deviations relating to the contractual action (i.e., no local clause included in the contractual action should meet the criteria at FAR 1.401 for a deviation).
- ▶ Period of time each deviation is needed.
- ▶ Solicitation, contract, offeror, contractor, etc., affected by the deviation.
- ▶ Specific FAR or DEAR policy, procedure, provision, clause, etc. from which each deviation is desired (include number, title, alternate, etc.).
- ▶ For each requested deviation, identification of the specific words to be deleted or added by a line-in/line-out comparison of the policy, procedure, provision, clause, etc. prescribed by the FAR or DEAR to the proposed language.
- ▶ For each requested deviation, whether the deviation was requested before. If it was, provide the complete history of the prior request, including past approvals and uses of the deviation.
- ▶ For each requested deviation, a complete justification for using the proposed policy, procedure,

- ▶ Issues, on the behalf of the Procurement Executive, administrative deviations to the DEAR pending appropriate rulemakings.
- ▶ Consults with the chairperson of the Civilian Agency Acquisition Council on class deviations to the FAR.
- ▶ Analyzes all approved deviation requests provided by the Office of Management Systems or Contracting Activities, collects data, monitors trends, determines when changes to the FAR or DEAR are appropriate, and initiates actions for FAR and DEAR changes when necessary.

This subject matter is appropriate for a local clause because it is *administrative* and *does not deviate from either the FAR or the DEAR*. While the FAR, at clause 52.224-2, sets forth Privacy Act requirements for contractors who design, develop or operate a system of records on individuals, it does not identify those contractor record systems that are subject to the Privacy Act requirements. In this case, the local clause has a *value added* purpose - it tells both the government and the contractor how FAR requirements apply specifically to this individual contract.

- ▶ Other material that may be appropriate for inclusion in local clauses includes:
 - ✓ Specifying local site practices for the access of contractor employees.
 - ✓ Identifying specific reports to be developed and submitted by the contractor.
 - ✓ Identifying specific government property to be transferred to or from the contract.
 - ✓ Defining local site policies and procedures for the release of contract-related information.
- ▶ The Office of Procurement and Assistance Policy is continuing its review of local clauses and will publish in the *DOE Acquisition Guide* local clause models that may be useful to all DOE procurement offices.

What material is not appropriate for a Local Clause?

- ▶ Any policy, procedure, solicitation provision, or contract clause that deviates from the FAR or the DEAR. These would be treated as deviations from the FAR or the DEAR and would be subject to the Department's deviation procedures described in this AL.

Who approves Local Clauses?

- ▶ The cognizant Contracting Officer is responsible for reviewing and approving the use of local clauses before issuing a solicitation or awarding a contract, consulting with his or her Procurement Counsel as appropriate.

What is the role of the Office of Management Systems?

- ▶ Provides assistance to contracting activities in drafting their local clauses when requested.
- ▶ Assesses the appropriateness of local clauses included in solicitations and contracts that are sent to Headquarters for review and approval.
- ▶ Identifies proposed local clauses that may be inappropriate or more suitable for DOE-wide implementation and informs the Office of Procurement and Assistance Policy of their findings.
- ▶ Provides to the Office of Procurement and Assistance Policy a copy of each local clause from

III. Uniform Contract Format

What is the Uniform Contract Format?

The Uniform Contract Format (UCF) is the standard contract format identified in FAR Part 15.204 for the government to use in its solicitations and contracts for negotiated acquisitions. The UCF organizes contractual material into four separate parts.

Part I--The Schedule

- A Solicitation/contract form.*
- B Supplies or services and prices/costs.*
- C Description/specifications/statement of work.*
- D Packaging and marking.*
- E Inspection and acceptance.*
- F Deliveries or performance.*
- G Contract administration data.*
- H Special contract requirements.*

Part II--Contract Clauses

- I Contract clauses.*

Part III--List of Documents, Exhibits, and Other Attachments

- J List of attachments.*

Part IV--Representations and Instructions.

- K Representations, certifications, and other statements of offerors or respondents.*
- L Instructions, conditions, and notices to offerors or respondents.*
- M Evaluation factors for award.*

The FAR exempts several types of contracts from the requirement to use the UCF, including construction, architect-engineer services, subsistence, letter requests for proposals, and contracts specifically exempted by the agency head or designee.

Does the Uniform Contract Format apply to the Department's M&O contracts?

Yes. The Department of Energy has not made a determination to specifically exempt its M&O

IV. M&O Contract Clause Matrix

What is the purpose of the clause matrix?

The attached matrix (Attachment C) was developed to promote a more uniform application of the terms and conditions that are included in the Department's M&O contracts and will serve as the primary source of guidance for DOE contracting personnel in determining the applicability of the clauses prescribed in FAR Part 52 and DEAR Parts 952 and 970. The matrix lists clauses sequentially, summarizes the regulatory prescription, and identifies the appropriate section of the Uniform Contract Format for inclusion of each clause.

Where can you access the matrix?

The M&O clause matrix will be maintained by the Office of Procurement and Assistance Policy on its Home Page (www.pr.doe.gov). The matrix will not be codified in the DEAR, and no printed versions of the matrix will be published after this Acquisition Letter.

When is the matrix updated?

The clause matrix will be updated on the Home Page as required and within 10 working days of the issuance of Federal Acquisition Circulars or a DEAR amendment.

Attachment B - Standard Financial Management Clauses

DEAR Clauses:

Accounts, Records, and Inspection.
Obligation of Funds.
Payments and Advances.
Management Controls.
Liability with Respect to Cost Accounting Standards.
Work for Others Funding Authorization.
Financial Management.
Integrated Accounting.

FAR Clauses:

Cost Accounting Standards.
Administration of Cost Accounting Standards.

**Clause Matrix for Department Of Energy
Management and Operating Contracts
Part I - FAR Clauses
(Thru FAC 97-12 and DEAR Final Rule dated 4/6/99)
(6/23/99)**

KEY:

R = Required
A = Required when applicable
O = Optional

M&O = Management and Operating contract
UCF = Uniform Contract Format

General instruction: Set forth below are clauses prescribed in FAR Part 52 (identified in the FAR Matrix for use in CR R&D, CR SVC, or CR CON contracts) which are to be used in DOE M&O contracts.

This listing does not include solicitation provisions.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.202-1 Definitions	952.202-1	R	R	I	2.2	The contracting officer shall insert the clause at 52.202-1, Definitions, in solicitations and contracts except when the contract is not expected to exceed the simplified acquisition threshold. If the contract is for personal services, construction, architect-engineer services, or dismantling, demolition, or removal of improvements, the contracting officer shall use the clause with its Alternate I. Additional definitions may be included, provided they are consistent with the clause and the FAR. DEAR 952.202-1 alters FAR clause 52.202-1.
52.203-3 Gratuities		R	R	I	3.202	The contracting officer shall insert the clause at 52.203-3, Gratuities, in solicitations and contracts with a value exceeding the simplified acquisition threshold, except those for personal services and those between military departments or defense agencies and foreign governments that do not obligate any funds appropriated to the Department of Defense.
52.203-5 Covenant Against Contingent Fees	970.5203-1	R	R	I	3.404 970.5203-1	The contracting officer shall insert the clause at 52.203-5, Covenant Against Contingent Fees, in all solicitations and contracts exceeding the simplified acquisition threshold, other than those for commercial items (see FAR Parts 2 and 12).
52.203-6 Restrictions on Subcontractor Sales to the Government		R	R	I	3.503-2	The contracting officer shall insert the clause at 52.203-6, Restrictions on Subcontractor Sales to the Government, in solicitations and contracts exceeding the simplified acquisition threshold. For the acquisition of commercial items, the contracting officer shall use the clause with its Alternate I.
52.203-7 Anti-Kickback Procedures		R	R	I	3.502-3	The contracting officer shall insert the clause at 52.203-7, Anti-Kickback Procedures, in solicitations and contracts exceeding the simplified acquisition threshold, other than those for commercial items (see FAR Part 12).
52.203-8 Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity		R	R	I	3.104-9(a)	The contracting officer shall insert the clause at 52.203-8, Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity, in solicitations and contracts with a value exceeding the simplified acquisition threshold.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.211-8 Time of Delivery Alternate I Alternate II Alternate III		O O O O	O O O O	F	11.404(a)(2) 11.404(a)(2) 11.404(a)(2) 11.404(a)(2)	The contracting officer may insert in solicitations and contracts other than those for construction and architect-engineering, a clause substantially the same as the clause at 52.211-8, Time of Delivery, if the Government requires delivery by a particular time and the delivery schedule is to be based on the date of the contract. If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date of award, the contracting officer may use the clause with its Alternate I. If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date the contractor will receive notice of award, the contracting officer may use the clause with its Alternate II. If the delivery schedule is to be based on the actual date the contractor receives a written notice of award, the contracting officer may use the clause with its Alternate III.
52.211-9 Desired and Required Time of Delivery Alternate I Alternate II Alternate III		O O O O	O O O O	F	11.404(a)(3) 11.404(a)(3) 11.404(a)(3) 11.404(a)(3)	The contracting officer may insert in solicitations and contracts other than those for construction and architect-engineering, a clause substantially the same as the clause at 52.211-9, Desired and Required Time of Delivery, if the Government desires delivery by a certain time but requires delivery by a specified later time, and the delivery schedule is to be based on the date of the contract. If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date of award, the contracting officer may use the clause with its Alternate I. If the delivery schedule is expressed in terms of specific calendar dates or specific periods and is based on an assumed date the contractor will receive notice of award, the contracting officer may use the clause with its Alternate II. If the delivery schedule is to be based on the actual date the contractor receives a written notice of award, the contracting officer may use the clause with its Alternate III.
52.211-12 Liquidated Damages-Construction Alternate I		O O	O O	F	11.504(b) 11.504(b)	The contracting officer may insert the clause at 52.211-12, Liquidated Damages-Construction, in solicitations and contracts for construction, except construction contracts on a cost-plus-fixed-fee basis (see 11.502). If different completion dates are specified in the contract for separate parts or stages of the work, the contracting officer shall use the clause with its Alternate I.
52.211-13 Time Extensions		A	A	F	11.504(e)	The contracting officer shall insert the clause at 52.211-13, Time Extensions, in solicitations and contracts for construction in which the clause at 52.211-12, Liquidated Damages-Construction, is used with its Alternate I.
52.215-8 Order of Precedence-Uniform Contract Format		A	A	I	15.209(h)	The contracting officer shall insert the clause at 52.215-8, Order of Precedence-Uniform Contract Format, in solicitations and contracts using the format at 15.204 (the UCF).
52.215-12 Subcontractor Cost or Pricing Data		A	A	I	15.408(d)	The contracting officer shall insert the clause at 52.215-12, Subcontractor Cost or Pricing Data, in solicitations and contracts when the clause at 52.215-10 is included.
52.215-13 Subcontractor Cost or Pricing Data-Modifications		A	A	I	15.408(e)	The contracting officer shall insert the clause at 52.215-13, Subcontractor Cost or Pricing Data-Modifications, in solicitations and contracts when the clause at 52.215-11 is included.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.216-26 Payments of Allowable Costs Before Definitization		A	A	I	16.603-4(c)	For letter contracts, the contracting officer shall also insert the clause at 52.216-26, Payments of Allowable Costs Before Definitization, in solicitations and contracts if a cost-reimbursement definitive contract is contemplated, unless the acquisition involves conversion, alteration, or repair of ships.
52.219-3 Notice of Total HUBZone Set-Aside		A	A	I	19.1308(a)	The contracting officer shall insert the clause at 52.219-3, Notice of Total HUBZone Set-Aside, in solicitations and contracts for acquisitions that are set aside for HUBZone small business concerns under 19.1305 or 19.1306.
52.219-4 Notice of Price Evaluation Preference for HUBZone Small Business Concerns		A	A	I	19.308(b)	The contracting officer shall insert the clause at 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns, in solicitations and contracts for acquisitions conducted using full and open competition. The clause shall not be used in acquisitions that do not exceed the simplified acquisition threshold.
52.219-6 Notice of Total Small Business Set-Aside Alternate I		A A	A A	I	19.508(c) 19.508(c)	The contracting officer shall insert the clause at 52.219-6, Notice of Total Small Business Set-Aside, in solicitations and contracts involving total small business set-asides. The clause at 52.219-6 with its Alternate I will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see 19.102(f)(4) and (5)).
52.219-7 Notice of Partial Small Business Set-Aside Alternate I		A A	A A	I	19.508(d) 19.508(d)	The contracting officer shall insert the clause at 52.219-7, Notice of Partial Small Business Set-Aside, in solicitations and contracts involving partial small business set-asides. The clause at 52.219-7 with its Alternate I will be used when the acquisition is for a product in a class for which the Small Business Administration has waived the nonmanufacturer rule (see 19.102(f)(4) and (5)).
52.219-8 Utilization of Small Business Concerns		R	R	I	19.708(a)	The contracting officer shall insert the clause at 52.219-8, Utilization of Small Business Concerns, in solicitations and contracts when the contract amount is expected to be over the simplified acquisition threshold unless – (1) A personal services contract is contemplated (see 37.104); or (2) The contract, together with all its subcontracts, is to be performed entirely outside of any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
52.219-9 Small Business Subcontracting Plan Alternate II		R A	R A	I	19.708(b)(1) 19.708(b)(1)	The contracting officer shall, when contracting by negotiation, insert the clause at 52.219-9, Small Business Subcontracting Plan, in solicitations and contracts that (i) offer subcontracting possibilities, (ii) are expected to exceed \$500,000 (\$1,000,000 for construction of any public facility), and (iii) are required to include the clause at 52.219-8, Utilization of Small, Small Disadvantaged and Women-Owned Small Business Concerns, unless the acquisition is set aside or is to be accomplished under the 8(a) program. When contracting by sealed bidding rather than by negotiation, the contracting officer shall use the clause with its Alternate I. When contracting by negotiation, and subcontracting plans are required with initial proposals as provided for in 19.705-2(d), the contracting officer shall use the clause with its Alternate II.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCP	Prescribed In	FAR Prescription
52.222-4 Contract Work Hours and Safety Standards Act-Overtime Compensation		A	A	I	22.305	The contracting officer shall insert the clause at 52.222-4, Contract Work Hours and Safety Standards Act--Overtime Compensation, in solicitations and contracts (including, for this purpose, basic ordering agreements) when the contract may require or involve the employment of laborers or mechanics. However, the contracting officer shall not include the clause in solicitations and contracts if it is contemplated that the contract will be in one of the following categories: (a) Contracts at or below the simplified acquisition threshold. (b) Contracts for supplies, materials, or articles ordinarily available in the open market. (c) Contracts for transportation by land, air, or water, or for the transmission of intelligence. (d) Contracts to be performed solely within a foreign country or within a territory under United States jurisdiction other than a State, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331), American Samoa, Guam, Wake Island, and Johnston Island. (e) Contracts requiring work to be done solely in accordance with the Walsh-Healey Public Contracts Act (see Subpart 22.6). (f) Contracts (or portions of contracts) for supplies in connection with which any required services are merely incidental to the contract and do not require substantial employment of laborers or mechanics. (g) Contracts for commercial items (see Parts 2 and 12). (h) Any other contracts exempt under regulations of the Secretary of Labor (29 CFR 5.15).
52.222-6 Davis-Bacon Act		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-7 Withholding of Funds		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-8 Payrolls and Basic Records		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-9 Apprentices and Trainees		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-10 Compliance with Copeland Act Requirements		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-11 Subcontracts (Labor Standards)		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-12 Contract Termination-Debarment		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-13 Compliance with Davis-Bacon and Related Act Regulations		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.
52.222-14 Disputes Concerning Labor Standards		A	A	I	22.407(a)	The contracting officer shall insert the clause in solicitations and contracts in excess of \$2,000 for construction within the United States.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.222-36 Affirmative Action for Workers with Disabilities Alternate I		A A	A A	I	22.1408(a) 22.1408(b)	<p>The contracting officer shall insert the clause at 52.222-36, Affirmative Action for Workers with Disabilities, in solicitations and contracts that exceed \$10,000 or are expected to exceed \$10,000, except when -- (1) Work is to be performed outside the United States by employees recruited outside the United States (for the purpose of this subpart, "United States" includes the several states, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Wake Island); or (2) The agency head has waived, in accordance with 22.1403(a) or 22.1403(b) all the terms of the clause.</p> <p>If the agency head waives one or more (but not all) of the terms of the clause in accordance with 22.1403(a) or 22.1403(b), use the basic clause with its Alternate I.</p>
52.222-37 Employment Reports on Disabled Veterans and Veterans of the Vietnam Era		A	A	I	22.1308(b)	The contracting officer shall insert the clause at 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era, in solicitations and contracts containing the clause at 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era.
52.222-50 Nondisplacement of Qualified Workers		A	A	I	22.1208(a)	The contracting officer shall insert the clause at 52.222-50, Nondisplacement of Qualified Workers, in solicitations and contracts for building services that succeed contracts for performance of similar work at the same public building and that are not excluded by 22.1203.
52.223-2 Clean Air and Water		A	A	I	23.105(b)	The contracting officer shall insert the clause at 52.223-2, Clean Air and Water, in solicitations and contracts to which this subpart applies (see 23.101), if -- (1) The contract is expected to exceed \$100,000; (2) The contracting officer believes that orders under an indefinite quantity contract in any year will exceed \$100,000; or (3) A facility to be used has been the subject of a conviction under the applicable portion of the Air Act (42 U.S.C. 7413(e)(1)) or Water Act (33 U.S.C. 1319(e)) and is listed by EPA as a violating facility; and (4) The acquisition is not otherwise exempt under 23.104.
52.223-3 Hazardous Material Identification and Material Safety Data Alternate I		A A	A A	I	23.303(a) 23.303(b)	<p>The contracting officer shall insert the clause at 52.223-3, Hazardous Material Identification and Material Safety Data, in solicitations and contracts if the contract will require the delivery of hazardous materials as defined in 23.301.</p> <p>If the contract is awarded by an agency other than the Department of Defense, the contracting officer shall use the clause at 52.223-3 with its Alternate I.</p>
52.223-5 Pollution Prevention and Right-to- know Information		A	A	I	23.1005	The contracting officer shall insert the clause at 52.223-5, Pollution Prevention and Right-to-Know Information, in all solicitations and contracts that provide for performance, in whole or in part, on a Federal facility.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.223-14 Toxic Chemical Release Reporting		A	A	I	23.907(b)	Except for acquisitions of commercial items as defined in Part 2, the contracting officer shall insert the clause at 52.223-14, Toxic Chemical Release Reporting, in the resulting contract, when the solicitation contains the provision at 52.223-13, Certification of Toxic Chemical Release Reporting, and if the contract is expected to exceed \$100,000 (including all options).
52.224-1 Privacy Act Notification		A	A	I	24.104(a)	When the design, development, or operation of a system of records on individuals is required to accomplish an agency function, the contracting officer shall insert the clause at 52.224-1, Privacy Act Notification.
52.224-2 Privacy Act		A	A	I	24.104(b)	When the design, development, or operation of a system of records on individuals is required to accomplish an agency function, the contracting officer shall insert the clause at 52.224-2, Privacy Act.
52.225-3 Buy American Act-Supplies	970.5203-3	R	R	I	25.109(d) 970.5203-3	Except as provided below, the contracting officer shall insert the clause at 52.225-3, Buy American Act – Supplies, in solicitations and contracts for the acquisition of supplies, or for services involving the furnishing of supplies, for use within the United States. Do not use the clause at 52.225-3 when -- (1) The solicitation is restricted to domestic end products under Subpart 6.3; (2) The acquisition is made under a trade agreement (see Subpart 25.4); or (3) Another exception to the Buy American Act applies (e.g., nonavailability or public interest). DEAR 970.5203-3 alters the FAR clause.
52.225-5 Buy American Act-Construction Materials	970.5204-3	A	A	I	25.207(a) 970.5204-3	The contracting officer shall insert the clause at 52.225-5, Buy American Act-Construction Materials, in solicitations and contracts for construction inside the United States, except when the clause at 52.225-15, Buy American Act-Construction Materials under Trade Agreements Act and North American Free Trade Agreement, is prescribed.
52.225-7 Balance of Payments Program		A	A	I	25.305(c)(1)	The contracting officer shall insert the clause at 52.225-7, Balance of Payments Program, in solicitations and contracts for acquiring supplies or services for use outside the United States, unless one or more of the exceptions in 25.302(b) applies or the acquisition is made under the Trade Agreements Act of 1979 or NAFTA (see Subpart 25.4).
52.225-10 Duty-Free Entry		A	A	I	25.605(a)	The contracting officer shall insert the clause at 52.225-10, Duty-Free Entry, in solicitations and contracts over \$100,000 that provide for, or anticipate furnishing to the Government, supplies to be imported into the customs territory of the United States.
52.225-11 Restrictions on Certain Foreign Purchases		R	R	I	25.702	The contracting officer shall insert the clause at 52.225-11, Restrictions on Certain Foreign Purchases, in solicitations and contracts over \$2,500.
52.225-14 Inconsistency Between English Version and Translation of Contract		A	A	I	25.902	The contracting officer shall insert the clause at 52.225-14, Inconsistency Between English Version and Translation of Contract, in solicitations and contracts whenever translation into another language is anticipated.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCP	Prescribed In	FAR Prescription
52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement		A	A	I	27.202-2	The contracting officer shall insert the clause at 52.227-2, Notice and Assistance Regarding Patent and Copyright Infringement, in supply, service, or research and development solicitations and contracts (including construction and architect-engineer contracts) which anticipate a contract value above the simplified acquisition threshold, except when complete performance and delivery are outside the United States, its possessions, and Puerto Rico, unless the contracts indicate that the supplies or other deliverables are ultimately to be shipped into one of those areas.
52.227-3 Patent Indemnity		A	A	I	27.203-4(a)(2)	Except as prohibited by 27.203-1(b), the contracting officer may insert the clause at 52.227-3, Patent Indemnity, in solicitations anticipating negotiated contracts (and such contracts) for supplies or services (excluding construction and dismantling, demolition, and removal of improvements), if the contracting officer determines that the supplies or services (or such items with relatively minor modifications) normally are or have been sold or offered for sale by any supplier to the public in the commercial open market. Ordinarily, the contracting officer, in consultation with the prospective contractor, should be able to determine whether the supplies or services being purchased normally are or have been sold or offered for sale by any supplier to the public in the commercial open market. (For negotiated construction contracts, see 27.203-5.)
52.227-4 Patent Indemnity--Construction Contracts Alternate I		A A	A A	I	27.203-5 27.203-5	Except as prohibited by 27.203-1(b), the contracting officer shall insert the clause at 52.227-4, Patent Indemnity -- Construction Contracts, in solicitations and contracts for construction or that are fixed-price for dismantling, demolition, or removal of improvements. If it is determined that the construction will necessarily involve the use of structures, products, materials, equipment, processes, or methods that are nonstandard, noncommercial, or special, the contracting officer may expressly exclude them from the patent indemnification by using the basic clause with its Alternate I.
52.227-5 Waiver of Indemnity		A	A	I	27.203-6	If, in the Government's interest, it is appropriate to exempt one or more specific United States patents from the patent indemnity clause, the contracting officer shall obtain written approval from the agency head or designee and shall insert the clause at 52.227-5, Waiver of Indemnity, in solicitations and contracts in addition to the appropriate patent indemnity clause. The contracting officer shall document the contract file with a copy of the written approval
52.227-10 Filing of Patent Applications--Classified Subject Matter		A	A	I	27.207-2	The contracting officer shall insert the clause at 52.227-10, Filing of Patent Applications--Classified Subject Matter, in all classified solicitations and contracts and in all solicitations and contracts where the nature of the work or classified subject matter involved in the work reasonably might be expected to result in a patent application containing classified subject matter.
52.227-23 Rights to Proposal Data (Technical)		A	A	I	27.409(s)	In accordance with 27.407, if a contracting officer desires to acquire unlimited rights in technical data contained in a successful proposal upon which a contract award is based, the contracting officer shall insert the clause at 52.227-23, Rights to Proposed Data (Technical). Rights to technical data in a proposal are not acquired by mere incorporation by reference of the proposal in the contract, and if a proposal is incorporated by reference, Section 27.404 must be followed to assure that such rights are appropriately addressed.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.228-16 Performance and Payment Bonds-Other Than Construction Alternate I		A A	A A	I	28.103-4 28.103-4	The contracting officer shall insert a clause substantially the same as the clause at 52.228-16, Performance and Payment Bonds-Other than Construction, in solicitations and contracts that contain a requirement for both payment and performance bonds. The contracting officer shall determine the amount of each bond for insertion in the clause. The amount shall be adequate to protect the interest of the Government. The contracting officer shall also set a period of time (normally 10 days) for return of executed bonds. Alternate I shall be used when only performance bonds are required.
52.229-2 North Carolina State and Local Sales and Use Tax Alternate I		A A	A A	I	29.401-2 29.401-2	The contracting officer shall insert the clause at 52.229-2, North Carolina State and Local Sales and Use Tax, in solicitations and contracts for construction to be performed in North Carolina. If the requirement is for vessel repair to be performed in North Carolina, the clause shall be used with its Alternate I.
52.229-8 Taxes-Foreign Cost- Reimbursement Contracts				I	29.402-2(a)	The contracting officer shall insert the clause at 52.229-8, Taxes--Foreign Cost-Reimbursement Contracts, in solicitations and contracts when a cost-reimbursement contract is contemplated and the contract is to be performed wholly or partly in a foreign country, unless it is contemplated that the contract will be with a foreign government.
52.229-10 New Mexico Gross Receipts Compensating Tax	970.5204-4	A	A	I	29.401-6(b) 970.5204-4	The contracting officer shall insert the clause at 52.229-10, State of New Mexico Gross Receipts and Compensating Tax, in solicitations and contracts issued by the agencies identified in paragraph (c) of this subsection when all three of the following conditions exist: (1) The contractor will be performing a cost-reimbursement contract. (2) The contract directs or authorizes the contractor to acquire tangible personal property as a direct cost under a contract and title to such property passes directly to and vests in the United States upon delivery of the property by the vendor. (3) The contract will be for services to be performed in whole or in part within the State of New Mexico. DEAR 970.5204-4 alters the FAR clause.
52.230-2 Cost Accounting Standards		A	A	I	30.201-4(a)	Cost accounting standards. (1) The contracting officer shall insert the clause at FAR 52.230-2, Cost Accounting Standards, in negotiated contracts, unless the contract is exempted (see 48 CFR 9903.201-1 (FAR Appendix)), the contract is subject to modified coverage (see 48 CFR 9903.201-2 (FAR Appendix)), or the clause at FAR 52.230-4 is used.
52.230-3 Disclosure and Consistency of Cost Accounting Practices		A	A	I	30.201-4(b)(1)	The contracting officer shall insert the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, in negotiated contracts when the contract amount is over \$500,000, but less than \$25 million, and the offeror certifies it is eligible for and elects to use modified CAS coverage (see 48 CFR 9903.201-2 (FAR Appendix)), unless the clause at FAR 52.230-4 is used.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.232-34 Payment by Electronic Funds Transfer - Other than Central Contractor Registration		A	A	I	32.1110(a)(2)	The contracting officer shall insert the clause at 52.232-34, Payment by Electronic Funds Transfer - Other than Central Contractor Registration, in all other solicitations and contracts. The contracting officer also shall insert this clause if the payment office does not have the ability to make payment by EFT, but will use a source other than the CCR database for EFT information when it begins making payments by EFT.
52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information		A	A	I	32.1110(c)	If EFT information is to be submitted to other than the payment office in accordance with agency procedures, the contracting officer shall insert in solicitations and contracts the clause at 52.232-35 Designation of Office for Government Receipt of Electronic Funds Transfer Information, or a clause substantially the same as 52.232-35 that clearly informs the contractor where to send the EFT information.
52.232-36 Payment by Third Party		A	A	I	32.1110(d)	If a payment under a written contract will be made by a charge to a Government account with a third party such as a Government-wide commercial purchase card, then the contracting officer shall insert the clause at 52.232-36, Payment by a Third Party, in solicitations and contracts.
52.232-37 Multiple Payment Arrangements		A	A	I	32.1110(e)	If the contract or agreement provides for the use of delivery orders, and provides that the ordering office designate the method of payment for individual orders, the contracting officer shall insert, in the solicitation and contract or agreement, the clause at 52.232-37, Multiple Payment Arrangements, and, to the extent they are applicable the clauses at— (1) 52.232-33, Payment by Electronic Funds Transfer—Central Contractor Registration; (2) 52.232-34, Payment by Electronic Funds Transfer—Other than Central Contractor Registration; and (3) 52.232-36, Payment by Third Party.
52.233-1 Disputes Alternate I		R A	R A	I	33.215 33.215	The contracting officer shall insert the clause at 52.233-1, Disputes, in solicitations and contracts, unless the conditions in 33.203(b) apply. If it is determined under agency procedures that continued performance is necessary pending resolution of any claim arising under or relating to the contract, the contracting officer shall use the clause with its Alternate I.
52.233-3 Protest after Award Alternate I		R R	R R	I	33.106(b) 33.106(b)	The contracting officer shall insert the clause at 52.233-3, Protest After Award, in all solicitations and contracts. If a cost reimbursement contract is contemplated, the contracting officer shall use the clause with its Alternate I.
52.234-1 Industrial Resources Developed Under Defense Production Act Title III		A	A	I	34.104	Insert the clause at 52.234-1, Industrial Resources Developed under Title III, Defense Production Act, in all contracts for major systems and items of supply.
52.236-18 Work Oversight in Cost- Reimbursement Construction Contracts		A	A	I	36.518	The contracting officer shall insert the clause at 52.236-18, Work Oversight in Cost-Reimbursement Construction Contracts, in solicitations and contracts when a cost-reimbursement construction contract is contemplated.
52.237-2 Protection of Government Buildings, Equipment, and Vegetation		A	A	I	37.110(b)	The contracting officer shall insert the clause at 52.237-2, Protection of Government Buildings, Equipment, and Vegetation, in solicitations and contracts for services to be performed on Government installations, unless a construction contract is contemplated.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.242-15 Stop-Work Order Alternate I		O O	O O	F	42.1305(b)(1) 42.1305(b)(2)	The contracting officer may, when contracting by negotiation, insert the clause at 52.242-15, Stop-Work Order, in solicitations and contracts for supplies, services, or research and development. If a cost-reimbursement contract is contemplated, the contracting officer shall use the clause with its Alternate I.
52.243-6 Change Order Accounting		O	O	I	43.205(f)	The contracting officer may insert a clause, substantially the same as the clause at 52.243-6, Change Order Accounting, in solicitations and contracts for supply and research and development contracts of significant technical complexity, if numerous changes are anticipated. The clause may be included in solicitations and contracts for construction if deemed appropriate by the contracting officer.
52.243-7 Notification of Changes		O	O	I	43.107	The contracting officer may insert a clause substantially the same as the clause at 52.243-7, Notification of Changes, in solicitations and contracts. The clause is available for use primarily in negotiated research and development or supply contracts for the acquisition of major weapon systems or principal subsystems. If the contract amount is expected to be less than \$1,000,000, the clause shall not be used, unless the contracting officer anticipates that situations will arise that may result in a contractor alleging that the Government has effected changes other than those identified as such in writing and signed by the contracting officer.
52.244-5 Competition in Subcontracting		A	A	I	44.204(e)	The contracting officer shall, when contracting by negotiation, insert the clause at 52.244-5, Competition in Subcontracting, in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold, unless - (1) A firm-fixed-price contract, awarded on the basis of adequate price competition or whose prices are set by law or regulation, is contemplated; or (2) A time-and-materials, labor-hour, or architect-engineer contract is contemplated.
52.244-6 Subcontracts for Commercial Items and Commercial Components		R	R	I	44.403	The contracting officer shall insert the clause at 52.244-6, Subcontracts for Commercial Items and Commercial Components, in solicitations and contracts for supplies or services other than commercial items.
52.246-3 Inspection of Supplies-Cost- Reimbursement		A	A	E	46.303	The contracting officer shall insert the clause at 52.246-3, Inspection of Supplies-Cost Reimbursement, in solicitations and contracts for supplies, or services that involve the furnishing of supplies, when a cost-reimbursement contract is contemplated.
52.246-5 Inspection of Services-Cost- Reimbursement		A	A	E	46.305	The contracting officer shall insert the clause at 52.246-5, Inspection of Services-Cost Reimbursement, in solicitations and contracts for services, or supplies that involve the furnishing of services, when a cost-reimbursement contract is contemplated.
52.246-8 Inspection of Research and Development-Cost Reimbursement Alternate I		A A	A A	E	46.308 46.308	The contracting officer shall insert the clause at 52.246-8, Inspection of Research and Development-- Cost Reimbursement, in solicitations and contracts for research and development when (a) the primary objective of the contract is the delivery of end items other than designs, drawings, or reports, and (b) a cost-reimbursement contract is contemplated; unless use of the clause is impractical and the clause prescribed in 46.309 is considered to be more appropriate. If it is contemplated that the contract will be on a no-fee basis, the contracting officer shall use the clause with its Alternate I.

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCF	Prescribed In	FAR Prescription
52.247-1 Commercial Bill of Lading Notations		A	A	I	47.104-4(a)/(b)	<p>The contracting officer, in order to ensure the application of section 10721 rates, shall insert the clause at 52.247-1, Commercial Bill of Lading Notations, in solicitations and contracts when the contracts will be -- (1) Cost-reimbursement contracts, including those that may involve the movement of household goods (see 47.104-3(b)); or (2) Fixed-price f.o.b. origin contracts (other than contracts at or below the simplified acquisition threshold) (see 47.104-2(b) and 47.104-3).</p> <p>The contracting officer may insert the clause at 52.247-1, Commercial Bill of Lading Notations, in solicitations and contracts made at or below the simplified acquisition threshold when it is contemplated that the delivery terms will be f.o.b. origin.</p>
52.247-63 Preference for U.S.-Flag Air Carriers		R	R	I	47.405	<p>The contracting officer shall insert the clause at 52.247-63, Preference for U.S.-Flag Air Carriers, in solicitations and contracts whenever it is possible that U.S. Government-financed international air transportation of personnel (and their personal effects) or property will occur in the performance of the contract. This clause does not apply to contracts awarded using the simplified acquisition procedures in Part 13 or contracts for commercial items (see Part 12).</p>
52.247-64 Preference for Privately Owned U.S.-Flag Commercial Vessels Alternate I Alternate II		A A A	A A A	I	47.507(a) 47.507(b) 47.507(c)	<p>The contracting officer shall insert the clause at 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels, in solicitations and contracts that may involve ocean transportation of supplies subject to the Cargo Preference Act of 1954. (For application of the Cargo Preference Act of 1954, see 47.502(a)(3), 47.503(a), and 47.504.)</p> <p>If an applicable statute requires, or if it has been determined under agency procedures, that the supplies to be furnished under contracts shall be transported exclusively in privately owned U.S.-flag commercial vessels (see 47.502(a)(1) and 47.503(b)), use the basic clause with its Alternate I.</p> <p>If an applicable statute requires, or it has been determined under agency procedures, that supplies, materials, or equipment to be shipped under construction contracts shall be transported exclusively in privately owned U.S.-flag commercial vessels (see 47.505), use the basic clause with its Alternate II.</p>
52.247-67 Submission of Commercial Transportation Bills to the General Services Administration for Audit		A	A	I	47.104-4(c)	<p>The contracting officer shall insert the clause at 52.247-67, Submission of Commercial Transportation Bills to the General Services Administration for Audit, in solicitations and contracts when a cost-reimbursement contract is contemplated and the contract or a first-tier cost-reimbursement subcontract thereunder will authorize reimbursement of transportation as a direct charge to the contract or subcontract.</p>

FAR Clause Number Title	Secondary DEAR Clause Citation	M&O For Profit	M&O Non- Profit	UCP	Prescribed In	FAR Prescription
52.248-3 Value Engineering-Construction Alternate I		A A	A A	I	48.202 48.202	<p>The contracting officer shall insert the clause at 52.248-3, Value Engineering-Construction, in construction solicitations and contracts when the contract amount is estimated to be \$100,000 or more, unless an incentive contract is contemplated. The contracting officer may include the clause in contracts of lesser value if the contracting officer sees a potential for significant savings. The contracting officer shall not include the clause in incentive-type construction contracts.</p> <p>If the head of the contracting activity determines that the cost of computing and tracking collateral savings for a contract will exceed the benefits to be derived, the contracting officer shall use the clause with its Alternate I.</p>
52.249-13 Excusable Delays		A	A	I	49.505(d)	The contracting officer shall insert the clause at 52.249-14, Excusable Delays, in solicitations and contracts for supplies, services, construction, and research and development on a fee basis, when a cost-reimbursement contract is contemplated. The contracting officer shall also insert the clause in time-and-material contracts, labor-hour contracts, consolidated facilities contracts, and facilities acquisition contracts.
52.250-1 Indemnification Under Public Law 85-804 Alternate I		A	A	I	50.403-3	<p>The contracting officer shall insert the clause at 52.250-1, Indemnification Under Public Law 85-804, in contracts whenever the approving official determines that the contractor shall be indemnified against unusually hazardous or nuclear risks (also see 50.403-2(c)).</p> <p>In cost-reimbursement contracts, the contracting officer shall use the clause with its Alternate I.</p>
52.251-1 Government Supply Sources Alternate I		A A	A A	I	51.107	<p>The contracting officer shall insert the clause at 52.251-1, Government Supply Sources, in solicitations and contracts when the contracting officer may authorize the contractor to acquire supplies or services from a Government supply source.</p> <p>If a facilities contract is contemplated, the contracting officer shall use the clause with its Alternate I.</p>
52.251-2 Interagency Fleet Management System Vehicles and Related Services		A	A	I	51.205	The contracting officer shall insert the clause at 52.251-2, Interagency Fleet Management System (IFMS) Vehicles and Related Services, in solicitations and contracts when a cost-reimbursement contract is contemplated and the contracting officer may authorize the contractor to use interagency fleet management system (IFMS) vehicles and related services.
52.252-2 Clauses Incorporated by Reference		A	A	I	52.107(b)	The contracting officer shall insert the clause at 52.252-2, Clauses Incorporated by Reference, in solicitations and contracts in order to incorporate clauses by reference.
52.252-4 Alterations in Contract		A	A	I	52.107(d)	The contracting officer shall insert the clause at 52.252-4, Alterations in Contract, in solicitations and contracts in order to revise or supplement, as necessary, other parts of the contract, or parts of the solicitations that apply to the contract phase, except for any clause authorized for use with a deviation.

**Clause Matrix for Department Of Energy
Management and Operating Contracts
Part II -- DEAR Clauses (Parts 952 and 970)
(Thru FAC 97-12 and DEAR Final Rule dated 4/6/99)
(6/23/99)**

KEY:

R = Required
A = Required when applicable
O = Optional

M&O = Management and Operating contract
UCF = Uniform Contract Format

General instruction: Set forth below are clauses prescribed in DEAR Parts 952 and 970 to be used in addition to the FAR Part 52 contract clauses set forth in Part I. Prior to incorporating a clause identified below, the clause prescription and the "FAR/DEAR Clause Secondary Citation" should be reviewed.

This listing does not include solicitation provisions.

DEAR Clause Number Title	FAR/DEAR 952 Secondary Clause Citation	Prescribed In	M&O For Profit	M&O Non-Profit	UCF	DEAR Prescription
952.202-1 Definitions	FAR 52.202-1	952.202-1 902.200	R	R	I	The contracting officer shall insert the clause at FAR 52.202-1, Definitions, but modify it to limit the definition, at paragraph (a) of the clause, to encompass only the Secretary, Deputy Secretary, or Under Secretary of the Department of Energy and the Chairman, Federal Energy Regulatory Commission. The contracting officer shall also add a paragraph (d) or (e) in case Alternate I is used, which defines "DOE" as meaning the United States Department of Energy and "FERC" as meaning the Federal Energy Regulatory Commission.
952.204-2 Security		970.0404-4(a)(1) 970.5204-1(a)	A	A	I	The contracting officer shall insert the clause at 952.204-2 in all contracts which involve access to classified information, nuclear material, or access authorizations.
952.204-70 Classification/Declassification		970.0404-4(a)(1) 970.5204-1(a)	A	A	I	The contracting officer shall insert the clause at 952.204-70 in all contracts which involve access to classified information, nuclear material, or access authorizations.
952.204-71 Sensitive Foreign Nations Controls Clause requires a list		904.404(d)(3)	A	A	I	The contracting officer shall insert the clause at 952.204-71 in unclassified research contracts which may involve making unclassified information about nuclear technology available to certain sensitive foreign nations. The contractor shall be provided at the time of award the listing of nations included in DOE 1240.2, (see current version) Attachment 3, and any subsequent changes. (The attachment referred to in the clause shall set forth the applicable requirements of the DOE regulations on dissemination of unclassified published and unpublished technical information to foreign nations.)
952.204-74 Foreign Ownership, Control, or Influence Over Contractor		970.5204-10(b) 970.0404-4(a)(4)	R	R	I	The contracting officer shall insert the clause at 952.204-74 in all management and operating contracts. (NOTE: See Acquisition Letter 99-03 for the current clause language. The clause is currently being updated in a formal rulemaking.)
952.208-7 Tagging of Leased Vehicles		952.208-7 908-7101-7	A	A	I	The contracting officer shall insert the clause at 952.208-7 when leasing commercial vehicles for periods in excess of 60 days.

DEAR Clause Number Title	FAR/DEAR 952 Secondary Clause Citation	Prescribed In	M&O For Profit	M&O Non-Profit	UCF	DEAR Prescription
952.227-9 Refund of Royalties		927.206-2	A	A	I	The contracting officer shall insert the clause at 952.227-9 in solicitations and contracts for experimental, research, developmental, or demonstration work or other solicitations and contracts in which the contracting officer believes royalties will have to be paid by the contractor or a subcontractor of any tier.
952.231-70 Date of Incurrence of Cost		931.205-32	A	A	I	The contracting officer shall insert the clause at 952.231-70 in contracts that include authorized precontract costs. The clause requires the contracting officer to insert certain information.
952.236.71 Inspection		936.609-3	A	A	E	The contracting officer shall insert the clause at 952.236-71 in architect-engineering contracts.
952.237-70 Collective Bargaining Agreements-Protective Services		937.7040	A	A	I	The contracting officer shall insert the clause at 952.237-70 in all protective services solicitations and contracts involving DOE-owned facilities requiring continuity of services for public safety and national defense reasons. See also, 922.103-5, Contract clauses, which prescribes use of the clause at FAR 52.222-1, Notice to the Government of Labor Disputes.
970.5203-1 Covenant Against Contingent Fees	FAR 52.203-5	970.5203-1	R	R	I	Prescribes the use of the clause at FAR 52.203-5, which is to be inserted in all solicitations and contracts exceeding the simplified acquisition threshold, other than those for commercial items (see FAR Parts 2 and 12).
970.5203-3 Buy American Act-Supplies	FAR 52.225-3	970.5203-3	R	R	I	Prescribes the use of the clause at FAR 52.225-3, as modified by DEAR 970.5203-3, in solicitations and contracts for the acquisition of supplies, or for services involving the furnishing of supplies, for use within the United States, except when -- (1) The solicitation is restricted to domestic end products under Subpart 6.3; (2) The acquisition is made under a trade agreement (see Subpart 25.4); or (3) Another exception to the Buy American Act applies (e.g., nonavailability or public interest).
970.5204-1(b) Counterintelligence		970.0404-4(a)(2) 970.5204-1(b)	A	A	I	The contracting officer shall insert the clause at 970.5204-1(b) in all management and operating contracts and other contracts for the management of DOE-owned facilities which include the security and classification/declassification clauses.
970.5204-2 Integration of Environment, Safety, and Health Into Work Planning and Execution		970.2303-2(a)	A	A	I	When work under management and operating contracts and subcontracts thereunder is to be performed at a facility where DOE will exercise its statutory authority to enforce occupational safety and health standards applicable to the working conditions of the contractor and subcontractor employees at such facility, the clause at 970.5204-2 shall be used in such contract or subcontract and made applicable to the work if -- (1) DOE work is segregated from the contractor's or subcontractor's other work; (2) The operation is of sufficient size to support its own safety and health services; and (3) The facility is government-owned, or leased by or for the account of the government.
970.5204-3 Buy American Act-Construction Materials	FAR 52.225-5	970.5204-3	A	A	I	Prescribes the use of the clause at FAR 52.225-5, which shall be inserted in solicitations and contracts for construction inside the United States, except when the clause at 52.225-15 is prescribed.

DEAR Clause Number Title	FAR/DEAR 952 Secondary Clause Citation	Prescribed In	M&O For Profit	M&O Non- Profit	UCF	DEAR Prescription
970.5204-13 Allowable Costs and Fixed-Fee (Management and Operating Contracts)		970.3103(a)	A	A	I	The contracting officer shall insert the clause at 970.5204-13 in management and operating contracts (other than support contracts), in lieu of any of the following FAR clauses: 52.215-15, 52.215-16, 52.215-17, 52.215-18, 52.215-19, 52.216-7, 52.216-8, 52.216-9, and 52.216-15. See Notes (5) contained in the clause for the use of alternative language, as prescribed.
970.5204-14 Allowable Costs and Fixed-Fee (Support Contracts)		970.3103(a)	A	A	I	The contracting officer shall insert the clause at 970.5204-14 in management and operating support contracts, in lieu of any of the following FAR clauses: 52.215-15, 52.215-16, 52.215-17, 52.215-18, 52.215-19, 52.216-7, 52.216-8, 52.216-9, and 52.216-15. See Notes (3) contained in the clause for the use of alternative language, as prescribed.
970.5204-15 Obligation of Funds		970.15405(e)	R	R	I	The contracting officer shall insert the clause at 970.5204-15 in all management and operating contracts, in lieu of any of the following FAR clauses: 52.232-20, 52.232-21, and 52.232-22. See Note contained in the clause for the use of alternative language, as prescribed.
970.5204-16 Payments and Advances		970.3270	A	A	I	The contracting officer shall insert the clause at 970.5204-16 in management and operating contracts when advances of funds are to be placed in a special bank account. The clause may be appropriately modified to incorporate any additional provisions that may be required by governing financial regulations of the Treasury Department or DOE. This clause shall be used in lieu of any of the following FAR clauses: 52.232-9, 52.232-12, 52.232-25, 52.232-27, 52.232-33, 52.232-34, and 52.242-4. See Notes (4) contained in the clause for the use of alternative language, as prescribed.
970.5204-17 Political Activity Cost Prohibition		970.3103(b)	R	R	I	The contracting officer shall insert the clause at 970.5204-17 in all management and operating contracts.
970.5204-19 Printing		970.5204-19	R	R	I	The contracting officer shall insert the clause at 970.5204-19 in all management and operating contracts.
970.5204-20 Management Controls		970.5204-20	R	R	I	The contracting officer shall insert the clause at 970.5204-20 in all management and operating contracts.
970.5204-21 Property		970.4501	R	R	I	The contracting officer shall insert the clause at 970.5204-21 in all management and operating contracts, in lieu of any of the following FAR clauses: 52.245-1, 52.245-5, 52.245-21, and 52.245-19. Paragraph (f)(1)(iii) of the clause applies to a non-profit contractor only to the extent specifically provided in the individual contract.
970.5204-22 Contractor Purchasing System		970.5204-22	R	R	I	The contracting officer shall insert the clause at 970.5204-22, in lieu of the clause at FAR 52.244-2, in all management and operating contracts.

DEAR Clause Number Title	FAR/DEAR 952 Secondary Clause Citation	Prescribed In	M&O For Profit	M&O Non-Profit	UCF	DEAR Prescription
970.5204-35 Controls in the National Interest		970.5204-35	A	A	I	The contracting officer shall insert the clause at 970.5204-35 in management and operating contracts with educational institutions involving unclassified work.
970.5204-36 Preventing Conflicts of Interest in University Research		970.5204-36	-	A	I	The contracting officer shall insert the clause at 970.5204-36 in management and operating contracts with universities where DOE has major investments in facilities but does not own or lease the land.
970.5204-37 Statement of Work (Management and Operating Contracts)		970.1002	R	R	C	The contracting officer shall insert the clause at 970.5204-37 in all management and operating contracts.
970.5204-38 Special Clause for Procurement of Construction		970.1002(c) 970.3601	A	A	I	The contracting officer shall insert the clause at 970.5204-38 in management and operating contracts when the contractor is expected to perform no Davis-Bacon work with his own forces.
970.5204-39 Acquisition and Use of Environmentally Preferable Products and Services		970.2304-2	R	R	I	The contracting officer shall insert the clause at 970.5204-39 in all management and operating contracts. The clause at FAR 52.223-10 shall be omitted when the clause at 970.5204-39 is used.
970.5204-40 Technology Transfer Mission		970.73	A	A	I	The contracting officer shall insert the clause at 970.5204-40 in each solicitation for a new or an extension of an existing laboratory or weapon production facility management and operating contract. If the contractor is a nonprofit organization or small business eligible under 35 U.S.C. 200 et seq., to receive title to any inventions under the contract and proposes to fund at private expense the maintaining, licensing, and marketing of the inventions, the contracting officer shall use the basic clause with its Alternate I. The contracting officer may substitute the Alternate II phrase "weapon production facility" wherever the word "laboratory" appears in the clause where the facility is operated for national security purposes and engaged in the production, maintenance, testing, or dismantlement of a nuclear weapon or its components.
970.5204-42 Key Personnel		970.2201(b)(1)	R	R	I	The contracting officer shall insert the clause at 970.5204-42 in all management and operating contracts. The clause requires the contracting officer to insert certain information.
970.5204-43 Other Government Contractors		970.5204-43	A	A	I	The contracting officer shall insert the clause at 970.5204-43, when appropriate, in all management and operating contracts.
970.5204-44 Flowdown of Contract Requirements to Subcontracts		970.5204-44	R	R	I	The contracting officer shall insert the clause at 970.5204-44 in all management and operating contracts.
970.5204-45 Termination		970.4902	R	R	I	The contracting officer shall insert the clause at 970.5204-44 in all management and operating contracts. This clause shall be used in lieu of the FAR clauses at 52.249-5, 52.249-6, 52.249-11, and 52.249-12. The clause requires the contracting officer to insert certain information.
970.5204-52 Foreign Travel	952.247-70	970.5204-52	A	A	I	Prescribes the use of the clause at 952.247-70 in all management and operating contracts when foreign travel may be required under the contract

DEAR Clause Number Title	FAR/DEAR 952 Secondary Clause Citation	Prescribed In	M&O For Profit	M&O Non- Profit	UCF	DEAR Prescription
970.5204-76 Make-or-Buy Plan		970.15407-2-3	R	R	I	The contracting officer shall insert the clause at 970.5204-76, in lieu the clause at FAR 52.215-9, in all management and operating contracts.
970.5204-77 Workforce Restructuring Under Section 3161 of the National Defense Authorization Act for Fiscal Year 1993		970.2602-2(a)	A	A	I	The contracting officer shall insert the clause at 970.5204-77 in contracts for the management and operation of Department of Energy Defense Nuclear Facilities and, as appropriate, in other contracts that include site management responsibilities at a Department of Energy Defense Nuclear Facility.
970.5204-78 Laws, Regulations, and DOE Directives Clause		970.0470-2	R	R	I	The contracting officer shall insert the clause at 970.5204-78 in all management and operating contracts. The clause requires the contracting officer to incorporate two lists (Lists A and B).
970.5204-79 Access to and Ownership of Records		970.0407-3	R	R	I	The contracting officer shall insert the clause at 970.5204-79, in lieu the clause at FAR 52.215-9, in all management and operating contracts.
970.5204-80 Overtime Management		970.2275-2	R	R	I	The contracting officer shall insert the clause at 970.5204-80, in lieu the clause at FAR 52.222-2, in all management and operating contracts.
970.5204-81 Diversity Plan		970.2602(b)	R	R	I	The Contracting Officer shall insert the clause at 970.5204-81 in all management and operating contracts. The clause requires the contracting officer to insert certain information.
970.5204-82 Rights in Data-Facilities Alternate I		970.2707	A	A	I	The contracting officer shall insert the clause at 970.5204-82 in management and operating contracts which do not contain the clause at 970.5204-40. This clause shall be used in lieu of the following FAR clauses: 52.227-14, 52.227-16, 52.227-17, 52.227-18, 52.227-20, 52.227-21, and 52.227-22. The clause requires the contracting officer to insert certain information. Alternate I: In accordance with 970.2706(g), insert the phrase "and except Restricted Data in category C-24, 10 CFR part 725, in which DOE has reserved the right to receive reasonable compensation for the use of its inventions and discoveries, including related data and technology" after "laser isotope separation".
970.5204-83 Rights in Data-Technology Transfer		970.2707	A	A	I	The contracting officer shall insert the clause at 970.5204-83 in management and operating contracts which contain the clause at 970.5204-40, Technology Transfer Mission. This clause shall be used in lieu of the following FAR clauses: 52.227-14, 52.227-16, 52.227-17, 52.227-18, 52.227-20, 52.227-21, and 52.227-22. The clause requires the contracting officer to insert certain information. Alternate I: In accordance with 970.2706(g), insert the phrase "and except Restricted Data in category C-24, 10 CFR part 725, in which DOE has reserved the right to receive reasonable compensation for the use of its inventions and discoveries, including related data and technology" after "laser isotope separation" and before the comma in paragraph (b)(2)(ii) of the clause at 970.5204-83, as appropriate.
970.5204-84 Waiver of Limitations on Severance Payments to Foreign Nationals		970.25	A	A	I	The contracting officer shall insert the clause at 970.5204-84, in lieu of the clause at FAR 52.237-9, in solicitations and resulting contracts involving support services for DOE operations outside of the United States expected to exceed \$500,000, when, prior to the solicitation, the limitations on severance to foreign nationals has been waived. Alternate I shall be used when the Head of the Contracting Activity has waived the limitations on severance to foreign nationals after contract award.